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Rights of the Child

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UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1997

Addendum

Turkey

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I. PROFILE OF TURKEY

A. Geography

1. Situated at the crossroads of three continents where east meets west and north meets south, Turkey is a European, Balkan, Caucasian, Middle Eastern, Mediterranean and Black Sea State all at once.

2. Ninety-seven per cent of the territory of Turkey, a country with a surface area of 774,815 square kilometers, is in the Asian continent and the remaining 3 per cent is in Europe.

B. History

3. The Selchuk Turks, who settled in the Anatolian peninsula after the Battle of Malazgirt in 1071, reigned over the area for approximately 200 years. The Ottoman Empire, founded in the beginning of the fourteenth century in Anatolia, was one of the main powers of its era for a long time. Following the withering away of this Empire, the Turkish Republic was founded on 29 October 1923. With the successful reforms of Mustafa Kemal Atatürk, the founder of the Republic, Turkey has emerged as a modern State. Since its foundation the Turkish Republic has always pursued a policy of peace. Maintaining friendly and mutually beneficial relations with all countries, promoting regional and international cooperation schemes, seeking to resolve conflicts through peaceful means and contributing to regional and international peace, stability and prosperity have always been the basic principles guiding Turkish foreign policy.

4. Turkey is a member of the North Atlantic Treaty Organization, the Council of Europe, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of the Islamic Conference, the Economic Cooperation Organization and the Black Sea Economic Cooperation Organization all at the same time. It is also an associate member with a view to full membership of the European Union.

C. Administrative structure

5. The Republic of Turkey is a democratic, secular and social State governed by the rule of law. Its administrative structure consists of legislative, executive and judicial organs in accordance with the principle of the separation of powers. The legislative power is used by the Turkish Grand National Assembly (which will hereinafter be referred to as the "Parliament") on behalf of the Turkish nation. The executive power is exercised by the President of the Republic and the Council of Ministers, while the judicial power is exercised by the independent courts of justice. The constitutional provisions are the basic rules of law which are binding upon the legislative, executive and judicial organs, the administration and all other bodies and individuals.

6. The Parliament has 550 deputies elected by the people every five years through direct balloting. The President of the Republic is elected by the Parliament. The Prime Minister is appointed by the President of the Republic from among the members of the Parliament. The Ministers are nominated by the Prime Minister and approved by the Parliament.

7. The central organization of the administration is made up of the President of the Republic, the Prime Minister and the Ministers.

8. Judges are independent in the discharge of their duties. No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of their duties.

9. The Supreme Court acts as the court of appeals. The Juvenile Courts were introduced in 1979.

D. Economic structure

10. A variety of development strategies have been adopted by the Republic of Turkey since its foundation. A largely agriculture-based economic policy was followed in the initial years of the Republic. However, successful programmes were carried out in the field of industrialization when the State began to intervene more extensively in economic life.

11. The first Five-year Development Plan was introduced after 1960 and the first economic development plan was put into effect in 1963. Accordingly, a policy of import substitution was followed. The liberalization of international capital movements and the drive for the restructuring of the public sector have been the major economic policies since 1989.

12. Turkey has achieved a remarkable transformation from a State with an introvert economy based on import substitution, to a State with an extrovert economy integrated with the rest of the world in almost all sectors. In the process of this striking transformation, the foreign trade regime was completely overhauled and simplified. Import quotas were entirely removed, while the list of restricted import commodities was limited to munitions and drugs. Incentives for exports were extended by the adoption of a daily determination of foreign exchange rates. Parallel to the drastic change in the foreign trade regime, major reform in the financial sector was initiated.

13. Liberalization of the foreign trade regime played an important role in transforming Turkey from an agricultural commodity exporter, mainly trading with its neighbours, to a worldwide trader, exporting mainly industrial goods. The volume of trade rose from US$ 11 billion in 1980 to US$ 68 billion in 1996.

14. Turkey has become a country producing primarily industrial goods.

15. The average growth rate of the economy also increased in the new era. During 1971-1980, the average growth rate of the gross national product was 4 per cent per year. It rose to 5.3 per cent in the 1981-1990 period, and was 4.8 per cent from 1991-1997. Per capita income also rose from US$ 1,200 in 1980 to US$ 3,000 in 1997.

16. The new economic programme targets a substantial reduction in the inflation rate to 50 per cent by the end of 1998 with a real GNP growth rate of 3 per cent.

17. Different capabilities, features and problems witnessed in different regions of the country brought forth the need to plan models embodying new approaches in which the sectoral preferences would figure together with the regional analyses. In this context, the State aims at reducing the interregional differences, raising the welfare level in the less developed areas.

E. Demographic structure

18. The first census in Turkey was held in 1927, followed by the second in 1935. They were repeated thereafter at five-year intervals. The 1927 population of 13 million rose to 56.5 million in 1990 and to 62.5 million in 1997. In terms of population, Turkey is the largest country in the Middle East, holds the fifth rank in Europe and figures among the top 20 in the world. Population growth rate was 1.51 per cent in the 1990-1997 period.

19. A population policy introduced in the 1960s entrusted the Ministry of Health with the task of encouraging family planning. Accordingly, abortions were allowed and a new approach was introduced to combine the family planning services with those of mother and child care.

20. As a result of the rapid population growth rate, Turkey has acquired a young population, with more than one third of its population under 15 years of age. There is, however, an overall decline in the birth rate in Turkey, as confirmed by a drop from 48.9 per 1,000 in 1960 to 20.8 per 1,000 in 1997. A decline is also observed in the death rate in Turkey. This rate, which was 19.8 per 1,000 in 1960, decreased to 6.5 per 1,000 in 1997. According to the Turkish Demographic Survey which was conducted by the State Institute of Statistics (SIS) in 1989, the infant mortality rate also declined.

21. The average size of the household population is 4.5 persons.

22. The marriage rate is 7.76 per cent in accordance with data pertaining to 1996. The average age at first marriage is 25.8 for men and 22.1 for women. A great part of the marriages in Turkey (84.92 per cent) are both official and religious ceremonies. Since religious marriages alone are legally void, the official marriage ceremony has been encouraged through administrative and judicial measures.

23. The literacy rate has increased in the last 55 years almost three times for men and seven times for women. Compulsory primary education has been directly instrumental in this result. The rate of illiteracy was 19.5 per cent in 1990.

24. The period from 1945 to 1950 witnessed the first major influx from rural areas to large commercial centres and cities like Istanbul, Izmir and Adana and to the capital, Ankara. The second wave of migration was between 1965 and 1970. Nevertheless, the subsidization policies of agriculture introduced after 1975 and the high inflationary trend which is felt more in the cities slowed this movement.

25. According to the 1997 data, there are 1.3 million Turkish citizens working overseas, a figure that rises to 3.4 million when their dependents are taken into account.

F. Labour relations

26. According to the 1996 figures, 6.1 per cent of the total workforce of 22.2 million are unemployed. Compared with the figures for 1995, this indicates a decrease from 6.9 per cent, although unemployment among the educated groups, mostly in urban areas, increased to 27.0 per cent among men and 35.8 per cent among women.

27. The rate of participation in the labour force is 49.9 per cent for the whole of Turkey (70.6 per cent for men and 29.4 per cent for women); 58 per cent of the agrarian labour force is from the unpaid family workers group of which females make up 72 per cent.

28. Gender Statistics Series prepared by the State Planning Organization in 1994 points to an overall rate of 7.9 per cent of families that are headed by females. These rates are 8 per cent in rural and 7.9 per cent in urban areas.

29. The Turkish social security schemes essentially support employees and their dependants. The public and private social insurance systems introduced social security programmes in the last decade to those paying their premiums regularly despite being unemployed. Housewives may also benefit from these social insurance systems.

30. The social security services are provided depending on the nature of the workplace, by four social security agencies: the Retirement Administration (RA), the Social Security Administration (SSA), the Organization for Social Insurance of Independent Workers and private insurance bodies.

31. At the end of 1996, there were 10.9 million persons under the RA, 28 million persons under the SSA, 13.7 million persons under the Organization for Social Insurance of Independent Workers and 308,000 persons under private insurance bodies. Thus, nearly 52.6 million persons are under coverage, representing 83.6 per cent of the total population.

32. Children under the social insurance coverage are generally supported until they complete their eighteenth year of age or until they complete their education if they are over 18. Females over 18 are covered until they get married. If they do not marry, they can benefit from their coverage for their entire lives.

33. The RA supports public servants and other State employees as well as their spouses and children on retirement, disablement and death; 9.6 per cent of those covered are retired, widows and orphans, while 72.3 per cent are dependants.

34. A provision, introduced in 1986, has enabled men and women, at the ages of 60 and 55 respectively, to retire. Furthermore, an amendment made by Law No. 3774 enacted on 27 February 1992 allows men and women to retire at the end of 25 or 20 years in service, respectively.

35. The SSA coverage is available to 16.5 per cent of the active employees, 9.1 per cent of retired persons, disabled persons, widows and orphans, and 69.7 per cent of dependants. Voluntarily insured persons and agrarian workers constitute around 4.6 per cent of those covered by the SSA.

36. Under the SSA a worker attains retirement pay rights:

(a) If he completes 55 or she completes 50 years of age and has paid premiums for not less than 5,000 days;

(b) In addition to the foregoing, if he/she is insured for at least 15 years and not less than 3,600 days; or

(c) In addition to the conditions stated in (a) above, if he/she is insured for 25 or 20 years respectively and has paid disablement, old age and death risk insurance premiums for at least 5,000 days.

37. The Organization for Special Insurance of Independent Workers is an institution offering social insurance against sickness, old age, disablement and death for artisans, small merchants and independent workers, as well as their spouses and children. In this context, 12.9 per cent of the insured are in active employment, 8.1 per cent are retirees, disabled persons, widows and orphans, and 72.6 per cent are dependants. There is no age limit for retirement pay under this Organization. Any male or female having paid premiums for 25 and 20 years respectively, and any male over 55 and female over 50 years of age who paid premiums for 15 years is entitled to partial retirement pay upon their application.

38. As for the private insurance companies, 23.1 per cent of those covered are active employees, 19.2 per cent are retirees, disabled persons, widows and orphans, and 57.8 per cent are their dependants.

G. Human rights

1. Background information

39. Turkey shares democratic values and is a party to most of the basic international instruments of the United Nations and of the Council of Europe.

2. Turkish policy objectives

40. The programme of the Turkish Government involves further promotion of democratic practices, transparency in administration, an effective judicial system and further extension of the freedom of expression. In the follow-up of these commitments, the Turkish Government

- submitted to the Parliament a law, enacted on 14 August 1997, postponing the sentences of editors convicted of publishing articles including propaganda for terrorism;

- submitted to the Parliament another law, enacted on 6 August 1997, reforming the prisons and introducing new financial resources for them;

- issued a circular on 3 December 1997, stating the importance of strict adherence to human rights in law enforcement which will be thoroughly monitored by the relevant authorities;

- submitted to the Parliament a new draft in January 1998 to replace the Turkish Penal Code. The new draft eliminates the death penalty, which has been de facto abolished since 1984. This draft also rewrites the provisions governing freedom of expression;

- submitted a comprehensive law enacted by the Parliament on 21 January 1998, including special incentives and employment-generating measures in the eastern and south-eastern provinces suffering from the consequences of terrorist atrocities;

- submitted to the Parliament another draft in February 1998, including amendments to articles 17, 159 and 312 of the Turkish Penal Code and article 8 of the Anti-Terrorism Law regulating freedom of expression;

- submitted to the Parliament a draft law facilitating the prosecution of public officers.

3. Remarks on the current situation

41. The Government established a Human Rights Coordinating High Committee chaired by the State Minister responsible for human rights. This High Committee has been working on proposals for further legal and administrative arrangements regarding human rights, some of which have been submitted to the Council of Ministers for action.

42. Even though some of the amendments sent to the Parliament have not yet entered into force, the intensive work carried out by the Human Rights High Coordinating Committee and the alertness of the media to human rights issues, as well as the intensive training and education programmes of various government agencies on human rights, have created more sensitivity among all segments of the society to human rights.

43. Turkey is one of the few countries which has made every effort to further extend rights and freedoms, while struggling against one of the most vicious terrorist campaigns directed against its territorial integrity and national unity.

44. Terrorism is an international scourge and at the same time it is a direct assault on the basic human right, that is the "right to life" of people, including innocent children, all around the world. Suppression of terrorism requires collective efforts by the international community. In this respect, Turkey spends considerable efforts in the United Nations.

II. LEGAL AND ORGANIZATIONAL ASPECTS OF CHILDREN'S RIGHTS IN TURKEY

Introduction

45. Turkey throughout its history has been a country cognizant of child care and protection. The affection and mercy engrained in Turkish culture has made children's rights the focal point of family behaviour.

46. The first building block of the child-care system was laid in 1822 with the establishment of the "child reformatories". This was followed by the 1893 regulation to prevent children from begging. Later came attempts to protect children with the creation of orphanages and asylums. The orphanages were given a very strong emphasis, particularly after the First World War, in an attempt to protect, care for and educate the children who had lost their parents in wars. The founders of the Turkish Republic tried to establish the means so that the children would never have to experience again the ill effects of war. Their priority investment were made in peace, in rearing new generations and in teachers. Turkey was one of the signatories of the Declaration on the Rights of the Child.

47. From the 1920s, Turkey began to evaluate social assistance in the light of its new and contemporary concepts and institutions.

48. In 1920, the Grand National Assembly of Turkey was founded. The Grand National Assembly of Turkey worked as the "Revolutionary Assembly" which made important arrangements for the provision of social services. In this context, in the Grand Assembly's structure, the Ministry of Health and Social Aid, also responsible for social services, was founded and with this Ministry, services aimed at the protection of the child began to be implemented. Through the Commission for Social Aid, which it founded, the Grand Assembly supervised Children's Homes in Ankara. After the Republic of Turkey was declared, social services were reorganized with a secular republican understanding, through the guidance of technical knowledge gained in the past.

49. From 1923 to 1945, the Civil Code, the Municipality Law, the Labour Law and the Penal Code were promulgated. With all these laws, the subject of child protection was separated from voluntary and religious concepts and institutions and linked to scientific, rational and legal approaches. Social services in Turkey were developed especially after 1945.

50. In 1921, the Society for the Protection of Children were established by Atatürk. Atatürk declared 23 April, the day of the inauguration of the Turkish Grand National Assembly, as Children's Day, which is an expression of the importance ascribed to children as the building blocks of the country's future. For almost eight decades, 23 April has been celebrated as Children's Day and since 1979, children from all around the world have participated in the celebrations as guests of schoolchildren's families.

51. The Society for the Protection of Children was renamed in 1935 the "Turkish Child Protection Institution" and given an official status. This organization provides children with day-care centres, children's homes, nursing colleges, paediatric clinics and maternity wards and offers a care and protection scheme at provincial and subprovincial levels.

52. The training of professional staff to work in the field of social services gained importance as a result of the Social Services Institute Law passed in 1959. The Social Services Academy, founded in 1961, was attached to the Ministry of Health and Social Assistance until 1982, when with the passing of the new Higher Education Law, it became affiliated to the Hacettepe University and was renamed the School of Social Services. The curriculum of the school aims to train professional social workers. The inclusion of social services training in the contemporary system of education has led to considerable improvements as regards social service policy and planning.

53. The Social Services and Child Protection Agency Law No. 2828 promulgated on 24 May 1983 is a good indicator of this professional approach. In addition to bringing about many legal, administrative and financial innovations, the law has a "social reform" aspect that provides for the organization of social services in accordance with changes and developments. Under Law No. 2828, the social services provided to people in need of protection, care and assistance, to children, the handicapped, the aged and others are carried out in a new way. The innovations brought about by Law No. 2828 are briefly, as follows:

1. The local authorities, previously responsible for the implementation of child protection, planning and supervision duties, transferred these duties to the General Directorate.

2. The Social Services and Child Protection Agency has been made responsible for the identification and examination of children in need of protection. Thus, necessary legal support has been provided for the identification of disabled people and children in need of protection by professional social workers.

3. The Social Services and Child Protection Agency has been given the responsibility and power to supply financial and/or material forms of social assistance to deprived people within the "family" environment.

4. The financial resources available to the social services have increased and gained a more consistent character than in the past.

5. The General Directorate of the Social Services and Child Protection Agency has been given full authority to prepare a comprehensive regulation. Thus, social services are organized in parallel to the changing and developing needs of society.

6. It became possible to enhance the activities and standing of the General Directorate in the provinces in a more professional manner through the Provincial Social Services Management, directly responsible to the General Directorate of the Social Services and Child Protection Agency.

7. Under the chairmanship of the Prime Minister, Social Services Counselling Boards composed of one representative from each related agency were created. These started to handle organizational and coordination problems in social services at the national level.

8. The General Directorate of the Social Services and Child Protection Agency has been given the power to authorize the establishment of all governmental and voluntary organizations acting in the field of social services and to supervise their activities. Professional guidance and coordination is provided in order to get more effective services from voluntary organizations.

54. Apart from national arrangement and structures, Turkey is a party to various international agreements relating to the protection of and care for the children. Turkey signed the United Nations Convention on the Rights of the Child (CRC) during the World Summit for Children held at United Nations Headquarters on 29 and 30 September 1990, and ratified it on 9 September 1994, with the reservation of its right to interpret the articles 17, 29 and 30 in accordance with the Lausanne Treaty of 1923 and the Turkish Constitution. This Convention is now a national legal instrument after having been ratified by Law No. 4058 published in the Official Journal No. 22184 of 27 January 1995.

A. General implementation measures

55. In January 1995, after ratifying the CRC, the Prime Minister designated the General Directorate of the Social Services and Child Protection Agency as the "coordinator agency" for the implementation of the CRC in Turkey. Pursuant to the provisions of the CRC, coordinator agencies are responsible for ensuring the required coordination, with all public and private agencies, in preparing the action plans and country reports concerning: existing structural, legal and administrative measures, difficulties encountered in practical implementation and goals set in the provision of services and priorities established in their attainment.

56. With a view to facilitating the performance of the coordination task, it was agreed on 9 September 1995 to establish a Council for Children's Rights consisting of representatives of UNICEF, the Ministry of Justice, the Municipality of Çankaya (Ankara), the Ankara Bar Association, Hacettepe University's Social Services Academy and Ankara (University's Pedagogy Faculty. Besides this, on 4 October 1995, a Department for Protection and Monitoring of Children's Rights was formed within the General Directorate of the Social Services and Child Protection Agency.

1. Writing the State report

57. In accordance with the United Nations recommendation, ad hoc committees comprising 200 members from public agencies, non-governmental organizations and representatives from universities as well as international organizations were formed for preparing the first national report and the national action plan. The ad hoc committees that began to prepare the report were established in the areas of: (a) legal and administrative structure; (b) education and promotion; (c) data generation; and (d) follow-up.

58. Public agencies and non-governmental bodies both strived for the promotion and implementation of the CRC, while at the same time, they organized the preparation of the State report.

2. Promoting the Convention on the Rights of the Child

59. The Department for the Protection and Monitoring of Children's Rights of the General Directorate continues its work with the support of voluntary non-governmental organizations, local administrations, public agencies involved in the protection of children and academic circles.

60. A commission was established in the Ministry of Justice on 14 January 1994 for the examination of the legislation on the General Directorate of the Social Services and Child Protection Agency, as well as of the international conventions, with a view to reflecting them in the national legal system, eliminating the difficulties arising from the jurisprudence and introducing the necessary legal arrangements.

61. Detailed information on the CRC was communicated by a circular to all public agencies, provinces, and non-governmental organizations.

62. The Turkish Radio and Television Corporation (the TRT), the public television network of the country, since its establishment in 1927 has laid a major emphasis on broadcasts for children. Radio Ankara had initiated a Children's Club in 1950 and started a children's hour programme. This programme was also broadcast in Istanbul, Izmir, Diyarbakir, and for the children overseas, by the "Voice of Turkey". Since 1995, the TRT varied its children's programmes like "We're Friends," "The Orange," "We Children Have Rights," and "The Children Have a Voice." The general broadcast programme of the TRT was expanded in 1997 to include the international agreements on children's rights. Likewise, the rights of working children are promoted in television broadcasts within the context of the CRC.

63. To raise awareness about the CRC, a conference entitled "Policies for Children in the 1990s" was held on 29 and 30 May 1989 by the State Ministry in cooperation with UNICEF.

64. The Turkish National Committee for UNICEF supported the production of several children's TV programmes and interviews on the rights of the child.

65. Workshops were held on the following subjects through special groups formed in preparation for the above-mentioned conference: maternal health; child development and family interaction; education of girls; children of emigrant workers; children and the environment; legal protection of child workers; children requiring special care and attention.

66. The informative introductory file prepared by UNICEF in January 1991 was distributed together with the full text of the CRC to all public and private bodies.

67. A children's summit, consisting of representatives of children from all the provinces of the country, was held in April 1991 for promoting the CRC and increasing public interest in the subject. This summit was organized by a leading children's magazine, Doğan Kardeş.

68. Non-governmental organizations dealing with issues of children joined to set up a body to promote the CRC in Istanbul, in 1992.

69. The Istanbul Bar Association organized in November 1995 a conference on children's rights, bringing together experts and organizations working on this subject with a view to identifying the basic principles and guidelines for the legal and organizational arrangements required by the CRC. The proceedings of this meeting, including those of the working groups, was published in a book entitled Children's Rights Days. This meeting was followed by a second on 7 and 8 November 1996.

70. In November 1995, the Eskişehir Provincial Social Services Directorate held a panel on the CRC with the participation of a large audience in order to increase public sensitivity towards children's rights.

71. The Metropolitan Municipality of Istanbul organized on 11 and 12 April 1996 a seminar on the children's protection law, with the support and participation of the German Consulate General, the Turkish-German Jurists Association, the Comparative Law, Research and Implementation Centre of Istanbul University's Faculty of Law, and the Centre for International Relations Research and Practice. The goal of this seminar, which brought together a large audience, was to inform the jurists on practices at the international level on the matter.

72. Under the auspices of the Izmir Branch of the Turkish Physicians' Association, a meeting of children's rights working groups was held on 13 and 14 April 1996 with the participation of local administration representatives, universities, concerned provincial directors and non-governmental organizations.

73. The second national congress, held from 24 to 26 April 1996, of the Society for the Prevention of Neglect and Abuse of Children, was a forum for discussion of many issues affecting children.

74. The Diyarbakir Branch of the Turkish Physicians' Association organized a meeting on "Children's right to health and Turkey" on 15 March 1997.

75. The full text of the CRC, reprinted by the General Directorate of the Social Services and Child Protection Agency, the Bursa Provincial Directorate of Social Services, the Turkish Human Rights Foundation, the Ankara Bar Association and the Mediterranean Branch of the Association of Social Service Workers, was distributed to all concerned persons and agencies.

76. The personnel training programmes of the General Directorate of the Social Services and Child Protection Agency were specially designed to improve their skills and knowledge on direct contact with children and children's rights.

77. The CRC was reprinted in easy-to-understand language for primary school pupils with the title "My Rights" by the General Directorate of the Social Services and Child Protection Agency and distributed on a mass scale.

78. A pamphlet entitled "History of Children's Rights in the World and in Turkey", prepared by the Human Rights Society for primary school teachers, was published.

79. Ankara University's Faculties of Educational Sciences and Law integrated the subjects of children's rights, human rights and basic democratic institutions into their graduate programmes.

80. Ankara University's Faculty of Educational Science established a museum for toys in 1990.

81. A Child Culture, Research and Implementation Centre was established at Ankara University in 1994. The Centre organized the First National Children's Culture Congress from 6 to 8 November 1996 with the participation of speakers from several universities. In November 1998, the Second Conference took place in Ankara. This conference will be repeated biennially.

B. Definition of the child

1. Definition of the child in general

82. Article 1 of the CRC defines children as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier". This definition covers the concept of the "minor" used in the Turkish Civil Code.

83. According to the Turkish legal system, the moment at which personality is acquired is of great significance, as far as the rights and responsibilities and the protection of children are concerned. According to article 27 of the Turkish Civil Code, personality starts from the moment of the child's complete and live birth. The acquisition of personality is very important particularly in cases of inheritance since the successor must be alive at the time of the testator's demise. A newborn becomes a successor even if he/she lives one moment after the birth. A stillborn infant, on the other hand, does not have this privilege.

84. An extension of the capacity concept, laid down in article 8 of the Turkish Civil Code, is found in the Civil Procedure Law, article 82 of which gives the right to become a party in a lawsuit. Likewise, article 58 of the Civil Procedure Law and article 27 (2) of the Turkish Civil Code entitle even the foetus to become a party in a lawsuit provided that it is subsequently born alive. In this case, the trustee appointed for the foetus may establish a lawsuit on its behalf under article 298 of the Turkish Civil Code and article 492 of the Civil Procedure Law. Such lawsuits become void if a stillbirth occurs later. If, on the other hand, the lawsuit ends prior to birth and the infant is subsequently born dead, the verdict becomes void.

85. Although personality is acquired at the moment of birth, the Turkish Civil Code also protects the unborn infant. Article 27 (2) of the said Code protects the foetus in a general manner with the statement that "A child enjoys civil rights from the moment of conception if it is subsequently born alive." This provision entails several practical results. In fact, if there is an unborn infant among the successors, the inheritance is not decided upon until the birth takes

place, as stated in article 584 of the Code. Similarly, a paternity case may be established by a court-determined trustee prior to birth in the case of pregnancies out of wedlock, under article 296.

86. Although article 11 of the Turkish Civil Code sets the completion of the eighteenth year of age as the beginning of legal age, a person can be accepted as having attained legal age by means of a marriage or court verdict. One may also acquire an early legal age by a court verdict under article 15 according to which a 15-year-old minor may be declared as having legal age with his or her consent and the parents' approval. If the minor is under guardianship, the guardian will also be heard on the matter. The judge will, under article 12 of the Code, deliver a verdict by taking into account the best interests of the child. These provisions of the Turkish Civil Code display a similarity with the general principles laid down in article 1 of the CRC.

2. Age of marriage

87. The Civil Code lays down the minimum age for getting married as 18. However, with the consent of the parents, this limit can be 17 years of age for males and 15 years of age for females. Irrespective of these limits, the judge may permit the marriage of a 15-year-old male with a 14-year-old female for important reasons and under exceptional circumstances under article 88 of the Code.

3. Definition of the child in terms of legal capacity

88. Decisions concerning legal and medical matters are closely linked to the concept of legal capacity.

89. A person's legal capacity is his/her power to acquire rights and/or contract debentures by acts and actions of his/her own will. For this reason, only persons having certain qualifications are deemed to have legal capacity. This capacity also entails the ability to perform legal actions, to be responsible for illegal actions, and to appear in lawsuits as defendant and plaintiff or respondent. A person will be deemed as having legal capacity only if he/she is capable of making judgements and is of legal age without a guardian, pursuant to article 14 of the Civil Code.

90. Children under 18 years of age are either partially or completely incompetent, depending on whether they have power of discernment or not. The Civil Code does not specify when the child will acquire the power of discernment and leaves it to the judge's discretion to decide whether he/she possesses it or not.

91. According to article 262 of the Civil Code, "The child is under his or her parents' guardianship, which may not be taken away from them without legally valid reasons." Article 354 requires the appointment of a custodian for any child who is not under guardianship.

92. Since a minor who lacks power of discernment or who is not under guardianship or tutorship is deemed to be completely incompetent, he may not create rights or debentures by his/her own acts, with some exceptions. The law refuses to grant legal capacity to children, with the sole aim of protecting them. All legal acts of children who are wholly incapable are

performed for them by their guardians or tutors. Children deemed to be completely incompetent likewise to not have the right to establish lawsuits according to article 38 of the Civil Procedure Law. Children in this category are represented in lawsuits by their guardians or tutors.

93. Minors having power of discernment may perform some legal acts on their own without the need for the acquiescence of their legal representatives:

1. If the legal act does not create an obligation for the child and generates only a benefit, it is permitted under article 16 of the Civil Code.

2. Minors with power of discernment may likewise perform a number of acts closely related to their personalities and establish lawsuits pursuant to article 16 of the Civil Code. They may, for example, initiate paternity cases or legal age claims.

3. If a minor is granted permission to enter into a trade or profession by his/her guardian or, in case a tutorship is involved, by the local magistrate's court, he or she may proceed with the follow-up of the claims and debentures arising therefrom under the articles 283, 284, 396 and 40 (7) of the Civil Code.

4. Where minors are allowed to establish separate residences and to live there, they will be allowed to perform all activities to meet the needs thereof and to personally appear in lawsuits.

94. Neither minors, even if they have power of discernment, nor their legal representatives are allowed to bequeath their property, establish foundations or become guarantors, under the provisions of article 392 of the Civil Code.

95. Acts and actions not stated above and not incurring debentures for the minors may be performed by the guardians or tutors of minors or the minors may personally do so with the approval of their guardians or tutors. Minors having power of discernment are responsible for the losses and damages incurred by their illegal acts, under article 16 of the Civil Code.

96. When minors having power of discernment require any medical intervention, in principle, the approval of their guardians or tutors is not needed since the right to consent thereto is an exclusively personal one. However, article 70 of Law No. 1219 on the Practice of Medicine and Its Branches seeks the approval of the guardians or tutors of the minors prior to such interventions, irrespective of whether they are under restriction.

97. The reason underlying the requirement for the consent of legal representatives or tutors for such interventions on the minors is the fact that they need to be protected and that their interests should be defended by their legal representatives. Article 263 of the Civil Code seeks the consent of the parents for such interventions, and in case of disagreement between them, that of the father under article 263 or, where the father is deceased or unavailable, that of the mother, and in case they are divorced, that of the party to whom the guardianship is granted is sought

under article 264. In situations where the parentage is determined by a paternity verdict or adoption, consent of the parents having the guardianship or of the adoptive ones will be sought under article 312. For the minors who do not have any parentage relationships with the father, the requirement will be the consent of the mother for such medical interventions, if the mother is assigned as guardian by the court, pursuant to article 311. Consent for adopted minors will be given by the adoptive parents under article 257.

98. If the minor is placed under tutorship in accordance with the provisions of article 354 of the Civil Code, consent of the tutor will be sought.

99. Article 70 of Law No. 1219 on the Practice of Medicine and Its Branches states that "Consent will not be sought for the medical interventions where there are no guardians or tutors or where they are not available or where the minor is not in a position to make statements." However, in such circumstances the physicians are deemed to be persons performing a task without authorization according to article 410 of the Code of Obligations.

100. If the legal representative of the minor is a tutor refusing to consent to medical care considered necessary for the minor's health, the physician may appeal to the court for a decision for hospitalization under article 272 of the Civil Code. If, on the other hand, the minor's legal representative is a guardian, the physician is entitled to report the matter to the competent magistrate's court under article 404 and obtain a verdict for hospitalization pursuant to article 431.

101. In urgent cases, the refusal of the minor's legal representative to give the required consent will not prevent the physician from performing the interventions as appropriate and he/she will not have any responsibility arising therefrom, since the refusal to give consent will in this case constitute abuse of a right according to article 2 (2) of the Civil Code. In fact, article 3 of the Medical Deontology Regulations place the physicians under the responsibility of performing the interventions required under emergency situations.

102. Article 6 of Law No. 2827 on Birth Control requires, for abortions, the consent of the pregnant woman, the consent of the concerned person and the approval of her guardian in case of a minor, as well as a verdict of the competent court in case the pregnant minor under guardianship lacks power of discernment. However, the consent of a pregnant minor unable to make a conscious judgement as a result of a mental disorder will not be sought. The consent will not be sought under any emergency circumstances where the life or any vital organ of the person is in danger and where obtaining a court verdict will take time. According to article 5, abortion will be done upon consent until the tenth week of the pregnancy, provided that a vital risk will not be entailed. If, on the other hand, the pregnancy is of more than ten weeks, an abortion will be performed only if the pregnancy does or will threaten the minor's life or lead to serious disorders for the child to be born or for succeeding generations, by a report of a physician. In emergencies requiring immediate intervention without which life or one of the vital organs is in danger, an abortion will be done by a specialist without waiting for the results that are legally required.

103. Under article 3 of Law No. 2238 on Organ and Tissue Removal, Preservation and Transplantation, the person from whom tissue will be removed has to have completed his/her eighteenth year of age and has to have power of discernment.

104. The existing provisions regarding medical interventions on minors with power of discernment and the arrangements for obtaining a female minor's and her legal representatives' consent for abortion are in conformity with the rules concerning the child's interests stated in article 3 of the CRC and with the principle of respect to the child's views, stated in article 12 of the CRC.

4. Compulsory education

105. The Turkish Law on Primary Education repeats the constitutional provision to the effect that primary education is compulsory and free for all citizens and declares the 6-14 age bracket as the compulsory primary education period.

106. In 1997, in accordance with article 24 of the Basic National Education Law, primary education was extended from 5 years to 8 years as a first step towards extending it to 11 years. This reorganization includes the reduction of the numbers of students per classroom, improving sports infrastructures, expanding computer-supported education to all schools, starting to teach at least one foreign language starting from fourth grade with the utilization of audio-visual language laboratories, among others. The last two years of the education curriculum include civic and human rights courses. As this project covers about 10 million students, it has required the mobilization of immense financial and human resources. Besides the financing envisaged by the relevant regulations, a considerable amount is required and has been provided through voluntary contributions of individual citizens, institutions and the private sector. The World Bank also provided financial support to this project.

5. Definition of the child in labour legislation

(a) General

107. Legislation for the working age of children is contained in several laws.

108. Under article 67 of the Labour Law, it is forbidden to employ children under 15 years of age, with the exception that employment in light work may be permitted to 13-year-old children if it will not adversely affect their health, school education or vocational training. On the other hand, 12 was set to be the lower age limit for working in article 173 of the General Law on Hygiene. Efforts are under way to deal with such discrepancies.

109. Similarly, according to article 59 (1) of the National Basic Education Law, children of primary school age but not attending an educational institution may not be employed with or without pay in any public or private enterprise or in any other institution. However, article 59 (2) permits the employment of children attending a primary school, provided that the attendance is proven by documentary evidence and that the employment is outside of school hours.

(b) Definition of the child in terms of dangerous work

(i) Night work

110. Night work in industry is forbidden for male children under 18 years of age and for females of all ages. Provisions of article 174 of the General Hygiene Law are applicable to work not covered by the Labour Law. The said article forbids night work for children 12-16 years of age. According to the conclusion drawn from these two provisions together, children of 16 to 18 years of age may be employed in non-industrial work regardless of whether it is subject to the Labour Law or not.

111. Article 2 (1) of the International Labour Organization (ILO) Convention No. 6 and article 3 (1) of ILO Convention No. 90 prohibit night work at industrial enterprises for workers below 18 years of age. There are, however, a number of exceptions to this rule. Articles 2, 4, and 7 of Convention No. 6 permits their employment where a breakdown occurs at the workplace or public interest dictates this. According to article 3 (2) of Convention No. 90, children over 16 years of age are allowed to be employed during the night shift if the apprenticeship or other vocational training justifies it. Article 3 (1) of ILO Convention No. 79 forbids night employment of workers under 18 years of age.

112. It should be stated that the provisions of article 69 of the Turkish Labour Law are in conformity with and even go beyond the rules introduced by ILO Conventions No. 6 and No. 90 in terms of the degree of protection provided to children, in the context of child labour. The Turkish legislation concerning the non-industrial work for children, however, could be further improved to reach the standards set forth in ILO Convention No. 79.

(ii) Ban on employment in heavy and dangerous work

113. According to article 78 of the Labour Law, children under 16 years of age may not be employed in heavy and dangerous work. In addition to this, the same article states that the heavy and dangerous work that workers from 16 to 18 years of age can be employed in will be itemized by a special regulation. Article 2 (2) of the Regulation on Heavy and Dangerous Work issued pursuant to this law prohibits the employment of children under 16 years of age in heavy and dangerous work. Besides this, subarticle 1 of the same article forbids the employment of young workers of 16 to 18 years of age in jobs indicated in the table annexed to the said regulations. However, young workers who have completed their sixteenth year of age and who are graduates of schools providing vocational and specialized training and who exercise the subject of this training may be assigned to jobs stated between the 35th to 62nd lines of the list, pursuant to subarticles 3 and 4.

114. As for marine work, ILO Convention No. 15 ratified by Turkey on 25 May 1959 and article 6 (2) of the Marine Labour Law prohibit the employment of persons below 18 years as trimmers and stokers on board vessels.

115. The Ministry of Labour and Social Security Child Labour Unit, which is responsible for coordination of programmes related to child labour, development of new programme concepts and improving the legislation, trained a selected group of inspectors on child labour. The

inspection system was revised and the measures proposed by the inspectors for the improvement of the working conditions of children were implemented by using improved communication techniques. The Ministry of Labour and Social Security also started to study the effect of chemicals on children working in the leather industry, particularly for children badly affected by the solvents used in this sector.

116. The Ministry of Education carried out activities to increase awareness-raising activities with teachers and principals in Apprenticeship Training Centres and has carried out extensive research on the effectiveness of apprenticeship training with the aim of improving the existing systems.

117. In order to provide the Government with accurate information to take the necessary steps to prevent illegal child labour, the State Institute of Statistics carried out a national household survey to collect statistics on this problem.

118. The Metropolitan Municipality of Ankara's Center for Children Working on the Streets established during the first biennium of the International Programme for Eliminating Child Workers in Turkey provided health, education and psycho-social support to working children. The Turkish Confederation of Employers' Associations organized seminars at industrial sites to increase awareness of the employers of small-scale enterprises, in cooperation with Apprenticeship Schools, and it has now established a Child Labour Unit at an industrial site in Istanbul to provide health, education and psycho-social services to working children.

119. The Confederation of Turkish Tradesmen and Handicraftsmen trained a core group of trainers to educate its members on child labour. It is also training the parents of working children on how to start and improve a business for income generation.

120. The Turkish Research Institute of Small and Medium-Sized Enterprises and Craft Centres are developing training programmes against illegal child labour for the Unions of Turkish Tradesman and Handicraftsmen.

121. The Confederation of Turkish Trade Unions increased the awareness of its members to identify and address child labour issues in small-size enterprises of the leather sector in Istanbul and established national and six regional action commutes against child labour. It is also training its members and working children on children's right, the impact of child labour, health, nutrition, first aid, health and working safety to improve the quality of the life of working children and their parents.

122. The Foundation of Vocational Training and Small Industries trained the trainers of foremen, who are the most important group for the on-the-job training of working children. It also carried out vocational training for children working on the streets in the south-east of Turkey.

123. The Development Foundation of Turkey developed a model for rural child labour which provided vocational training and income-generation activities complementary to the primary school courses. It is now training the parents of working children in two regions of the country on how to start and improve a business for income generation.

124. The Fişk Institute, the Foundation for Working Children Knowledge and Action Centre, provided health services for children working in the metal and automotive industries and in the leather industry, particularly the shoemaking sector. A mobile clinic was established to provide regular health check-ups for children working at metal and automotive industrial sites in Ankara and Istanbul in cooperation with Apprenticeship Schools.

125. The Foundation of Vocational Training and Small Industries provided training courses for migrant children in East Anatolia and children working on the streets.

126. The Human Resource Development Foundation provided training for primary schools principals on child labour.

127. The Women's Library and Information Centre Foundation carried out research on the past and present situation of female child labour in domestic work.

128. Major universities in Ankara raised the awareness of students on child labour.

129. The General Directorate of Police, Department of Security, Division of Child Protection, enhanced its capacity to deliver better services to children.

130. Article 179 (4) of the General Law on Hygiene declares that the Labour Law will specify the unhealthy work at which children between 12 and 16 years of age may not be employed. Since this provision refers to the Labour Law for heavy and dangerous work, article 78 of the Labour Law and the Regulation on Heavy and Dangerous Work are also applicable to young workers under the Code of Obligations. The General Hygiene Law, however, adopted the guidelines set forth by the Labour Law regarding the employment of young workers in heavy and dangerous work without any special provisions on children from 12 to 16 years of age.

131. Article 7 (2) of the European Social Charter demands that the minimum employment age on jobs identified as dangerous and unhealthy should be raised to over 15 years. Although Turkey has not ratified the European Social Charter yet, the minimum age limit is set at 16 years for heavy and dangerous work by article 78 (1) of the Labour Law which is in conformity with the European Social Charter.

132. Some of the conventions and recommendations of the ILO introduce ad hoc provisions for heavy and dangerous work. ILO Convention No. 115, ratified by Turkey on 7 March 1968, prohibits the employment of young workers under 18 years of age in jobs where ionizing radiation is involved and permits the employment in such jobs of those over 18 years of age under certain conditions. The Regulation on Heavy and Dangerous Work also forbids the employment of young workers in such jobs who are younger than 16 years.

133. ILO Convention No. 117, which was ratified by Turkey on 30 November 1972, introduces a limitation on the heavy loads physically carried by young workers. Provisions of the Regulation on Heavy and Dangerous Work conform to this limitation.

134. In conclusion, it may be stated that the provisions set forth by the Labour Law and the regulations issued in accordance with it are in conformity with the ILO Conventions.

(iii) Ban on underground and underwater work

135. According to article 68 of the Labour Law, persons under 18 years of age may not be employed in underground and underwater work. This provision covers all activities performed under the ground and under the water regardless of their nature.

136. Article 2 of Law No. 51 on the Rights of Mine Workers at Ereğli Coal Mines states that persons under 18 years of age may not be employed within the mine. A similar provision is contained in article 173 (1) of the General Hygiene Law for children under 12.

137. The issue of underground and underwater work has not been excluded from the scope of article 5 of the Labour Law. For this reason, they are subject to article 68 of the Labour Law. Law No. 151 and article 173 (1) of the General Hygiene Law have lost all their practical value.

138. The limit of 18 years of age introduced by article 68 of the Labour Law for underground work is more advanced than the terms of the provisions established by ILO Convention No. 123 which sets the age limit as 16 years.

(iv) Ban on employment in the entertainment sector

139. The local municipalities will ban, under the authority vested in them by article 176 of the General Law on Hygiene, the employment of children under 18 years of age at bars, cabarets, dance halls, cafés, bathhouses and casinos. The workplaces enumerated here are not limited; the article prohibits such employment in all entertainment centres.

140. Article 12 (2) of Law No. 2559 on the Duties and Powers of the Police foresees this age limit as 21. Since this constitutes an ad hoc provision, it will have precedence over the 18-year age limit contained in the General Hygiene Law.

(c) Organization of work

(i) Working hours

141. The duration of work in general is 45 hours per week under article 61 of the Labour Law and the daily duration is set at 7½ hours in workplaces operating six days a week. Where work on Saturdays is half-day or full-day off, the daily duration will be determined by the division of 45 hours by the number of workdays. For example, an enterprise operating five days a week will have a daily workday of nine hours.

142. In addition to this general provision, article 67 (3) of the Labour Law regulates the working days of school-goers in a manner that does not interfere with their schooling and includes the school time in the 7½ hours of work. Evaluated together with articles 1 and 2 of the same law, the maximum work duration of children between 13 and 15 years of age becomes 7½ hours and all schooling time will be considered as time spent at work.

143. According to the General Hygiene Law, article 173/II, the maximum work duration for children between 12-16 cannot exceed eight hours a day. This article will primarily be applied to

children in jobs which are not subject to the Labour Law. Additionally, this article can also be applied to working children of 15-16 years of age, subject to the Labour Law. It can be concluded that the General Hygiene Law, article 173, is a general protective code to provide labour security for children and young people.

144. Therefore, the maximum daily working hours for children up to 16 years of age is 7½ hours, for all young workers employed in work which is subject to the Labour Law. All young workers over 16 years of age are subject to the standard daily working hours of that workplace. In order to protect the young workers who are not subject to the Labour Law, article 173 of the General Hygiene Law should be considered together with the Labour Law, article 67.

145. There has been no general regulation in the ILO Agreements on the subject of workings hours of young workers. Only Recommendation No. 153 advises that the normal working hours for young marine workers should not exceed eight hours a day and 40 hours a week.

146. There is regulation in the Marine Labour Law, article 26, which says that the working hours should be eight hours a day and 48 hours a week; however, there is no special regulation for young marine workers. In cases where there is no related regulation in the Marine Labour Law, the Code of Obligations, which is a general law; and the General Hygiene Law will be effective. According to ILO Convention No. 58 ratified by Turkey, children below 15 years of age cannot be employed on ships. If this Convention and laws are evaluated together, we come to the conclusion that young people between 15 and 18 years of age can only be employed on ships for eight hours a day.

(ii) Overtime

147. According to the Overtime Work Regulation, article 4/a, it is not allowed to make children below the age of 15 work overtime. Young people over 15 years of age are allowed to work overtime, within legal limits.

(iii) Rest periods

148. Pauses are rest times, granted to workers within the legal daily working hours. There is no special provision in the regulations related to the pauses for children and young workers. Children and young workers who are subject to the Labour Law benefit from the Labour Law, article 64, related to pauses.

149. It is possible to apply the Code of Obligations, article 334/1, to children and young workers who are not subject to the Labour Law. According to this article, "the employer is obliged in routine hours and days to allow the workers to rest".

(iv) Weekly rest, national and general holidays

150. According to the Law on Weekly Rest No. 394, article 1, and the Labour Law, article 41, at least one day off will be given to a worker who works six days a week.

151. The Code of Obligations, article 334/1, can be applied to the weekends of young workers who are not subject to the Labour Law. The Law on Weekly Rest No. 394 can also be applied to children and young workers subject to the Code of Obligations. However, the young workers subject to the Code of Obligations cannot benefit from the weekend holiday salary, which is mentioned in the Labour Law, article 41.

152. The Law on National and General Holidays No. 2429 is applicable to young workers who are subject to the Labour Law or the Code of Obligations. According to the Labour Law, article 42, workers who are subject to this law benefit from the general holiday salaries. However, workers who are not subject to the Labour Law cannot benefit from this right.

153. ILO Convention No. 14 on Weekly rest in industry, which was ratified by Turkey on 11 February 1946, grants 24 hours of weekly rest for a seven-day period (art. 2/I). Turkish legislation is in harmony with this Convention in this respect.

(v) Paid annual leave

154. According to the Labour Law, article 49/III, at least 18 days of paid annual leave are to be given to workers of 18 years of age or below. Although there is no special provision on paid annual leaves of young workers in the Marine Labour Law or in the Press Labour Law, young workers also benefit from the Marine Labour Law, article 40, and the Press Labour Law, article 21, which are related to paid annual leaves. There is no provision on paid annual leave for young workers who are subject to the Code of Obligations.

155. According to the Constitution, article 50/III and IV, "Resting is the right of workers. The rights and conditions of paid weekend and national holidays and paid annual leave are regulated by the law." By this article, the Constitution has accepted paid annual leave and the paid weekend and national holidays as social rights.

156. The legislature has regulated the paid holiday rights by labour laws, but has not included provisions on this subject for workers who are subject to the Code of Obligations. The precondition for benefiting from the right of paid holidays is to work under the labour laws (Labour Law, art. 4). Therefore young workers who are subject to the Code of Obligations cannot benefit from paid annual leaves and paid holidays.

157. Although children and young workers who are subject to the Code of Obligations technically do not have the right to benefit from paid annual leaves and paid weekend and national holidays, they have the right to annual leaves. It has been determined by the Constitution, article 50/III, that rest is a legal right of workers.

(vi) Sexual exploitation

158. The Turkish Penal Code, articles 414-416, regulate the offences of rape and sexual abuse. It introduces a variety of sentences depending on whether the victim has completed his/her fifteenth year or whether the victim is over 15 and below 18 years of age. The Turkish Penal Code, article 414, punishes the rape of a minor below the age of 15 and article 415 punishes

sexual abuse. The consent of a minor below the age of 15 to sexual intercourse does not waive the crime or hinder the punishment. The third paragraph of article 416 foresees a less severe punishment for those who engage in consensual sexual intercourse with a minor between the ages of 15 and 18.

(vii) Compulsory military service

159. According to article 2 of Military Law No. 1111, the age of military service starts on the first day of January of the year in which the person turns 20 years old. With this provision, it is clear that those who are below the age of 18 cannot be taken into military service. Boys over the age of 20 may postpone their military service if they can certify that they are continuing their education.

(viii) Voluntary testimony in courts

160. Testimony is regulated by the Penal Procedure Law, article 45 et sequitur. In principle, according to the Penal Procedure Law, article 45/I, a witness is called by a written invitation and according to article 46 of the same Law, if the witness is absent from the court without stating an excuse, he/she will be brought by force.

161. According to the Penal Procedure Law, article 47/III, "Natural relatives or relatives in law (...) of the accused can withdraw from testimony." This right is explained to the witnesses before their testimony.

162. According to the Penal Procedure Law, article 52/I, "Those under the age of 15 are heard without taking oath." In the Civil Procedure Law, article 247/I, it is also stated that minors below the age of 15 do not take an oath before their testimony.

163. Everybody is obliged to testify (Civil Procedure Law, art. 253). Therefore, this obligation is also the case for minor witnesses. The articles of the Civil Procedure Law regulating the withdrawal of witnesses are also applicable to minors.

164. Literate deaf and mute people and children are questioned in writing and their answers are also taken in writing. When these people are illiterate, they will be questioned by professional people (Civil Procedure Law, art. 270).

(ix) Penal responsibility

165. Under the Turkish Penal Code, the age of transition to full penal liability is 18. Nevertheless, according to the Law on Juvenile Courts, the minimum age to stand before these courts is 15 years.

(x) Restriction of freedom and imprisonment

166. Children under 11 years of age may not be imprisoned; only security measures may be adopted against them.

167. Provisions of the Penal Procedure Law are applicable where a matter is not treated in the Law on Juvenile Courts under article 18 of the latter. For this reason, the Turkish Penal Code and other basic legislation will be invoked where provisions are not available in the Law on Juvenile Courts regarding arrest, detention and imprisonment.

168. Detention, arrest and imprisonment are subject to certain rules in articles 127 to 131 and 104 to 121 of the Penal Procedure Law, which comprise legal remedies against probable errors and arbitrary action. The use of detention, arrest and imprisonment is therefore made even more difficult with regard to children and constitute the very last resort. Rules and mechanisms should be introduced to cause the least damage to children.

169. Under article 19 (2) of the Penal Procedure Law the detention and arrest of children is not possible during the investigation and trial stages for misdemeanours for which the lower penalty limits do not exceed three years. Article 37, on the other hand, requires that detained or arrested minors should be kept at penitentiaries reserved for minors or, where such penitentiaries do not exist, in separate parts of the prisons for adults.

170. The provision of counselling services for children on trial is obligatory according to article 138 of the Penal Procedure Law.

(xi) Consumption of alcohol and similar substances

171. Articles 403 et sequitur of the Turkish Penal Code deal with crimes regarding narcotics and consider the perpetration of such crimes through the employment of persons under 18 years of age or those not having penal liability as an aggravating circumstance. Giving narcotics to persons under 18 years of age is also an aggravating circumstance under article 104.

172. Article 574 (2) of the Turkish Penal Code is about the sale of alcoholic beverages and states that "Those providing alcoholic beverages anywhere to persons under 18 years of age or to persons in an obviously unnatural state due to mental or psychological disorder will be sentenced to imprisonment of up to two months" and adds that "the proprietor may be banned from exercising his/her trade/profession if he/she is a vendor of alcoholic beverages" to such persons.

173. Under article 12 of the Law on Duties and Authorities of the Police, the employment of young girls and women in casinos, bars, music halls and other similar places where alcoholic beverages are served and in such facilities as bathhouses and beaches depends on the approval of the highest-ranking administrative official of the area. Males and females under 21 years of age may not, under any circumstances, be employed in such places.

174. Police will deny access to bars, music halls and places where alcoholic beverages are served to persons under 18 years of age, even if they are accompanied by their guardians or tutors. Alcohol and tobacco sales to persons under 18 years of age have been prohibited by governors' decrees. The ban is controlled by local authorities.

C. General principles

1. Non-discrimination (art. 2)

175. Equality is stated in article 10 of the Constitution as an inalienable human right. According to this article, "Everybody is equal before the law irrespective of his or her language, race, sex, political and philosophical belief, religion, sect and other differences." Privileges shall not be granted to any person, family, group or class. All State organs and administrative authorities are under the obligation to comply with the principle of equality before law in all their actions. The Turkish legislation is governed by the egalitarian philosophy of the Constitution.

176. Article 8 of the Civil Code says that "Everybody benefits from the civil rights and, therefore, everyone is equal to contract debentures and acquire assets in conformity with the laws."

177. The Law No. 2828 on Social Services and Child Protection Agency reiterates the principle of equality by stating in its article 4 (d) that "Differences in class, race, religion, sect or region may not be considered in the provision of social services."

178. The Charter of the Turkish Red Crescent Association states the principle of equality as one of its guiding principles. In article 2 (2) of its Charter, it is stated that it "will act in conformity with the tenets of the principles of humanitarianism and equality that are the mainstays of the Red Cross philosophy".

179. The Constitution prohibits discrimination by emphasizing the principle of equality in the Civil Code and in the legislation dealing with children. Therefore, the principle of the prohibition of segregation, as promoted by the CRC, is also in harmony with the Turkish laws.

2. Best interests of the child (art. 3)

180. The best interests of the child are guaranteed by several provisions of the Turkish Constitution:

(a) Article 42 (2) of the Constitution says that "The State will adopt appropriate measures for protecting children and establish the institutions needed therefor";

(b) Article 42 (7) indicates that "The State will support talented children without sufficient financial means, through fellowships and other means to ensure that they continue their education";

(c) In article 50 (2) it is stated that "Minors, women and persons with physical and mental handicaps will be protected by special provisions as to their working conditions";

(d) Article 56 (3) indicates that "The State will centrally plan the establishment and services of the health institutions for ensuring that all citizens pursue their lives with good physical and mental health, that economy and productivity improve, in terms of manpower and materials, and that cooperation is enhanced."

181. Children's prime interests are considered also in several other laws in addition to the Constitution: article 273 et sequitur of the Civil Code; articles 53, 54, 414, 415, 416, 423, 430, 435, 436, 445, 446, 473 (I), 474, 476, 478, 545, 550 and 574 (2) of the Civil Code; article 12 (2) of the Penal Procedure Law; articles 11 (b) and 12 (3) of the Law on Duties and Authorities of the Police; articles 1, 2 (1), 4 (2) and 4 (3) of the Law on Protecting Minors from Inappropriate Publications.

182. The part entitled "General Principles" of the Law on the Social Services and Child Protection Agency states in its article 4 (c) that "Children, the disabled and needy persons requiring protection will be given priority in the implementation of social service programmes." Article 9 (b), itemizing the organization's duties, confirms the consideration of children's prime interests by saying that "The organization is responsible for finding and protecting children, the disabled and the aged requiring help, establishing and operating, in conformity with article 4, the social service facilities defined in article 3 and rehabilitating the persons placed under protection." The prime interests of children are also touched on in article 9 (c) which says that the organization will "establish facilities to the extent of the means at its disposal for the care of the children of working parents and those employed abroad".

183. Regarding the measures to be applied for children, article 8 of the Law on Juvenile Courts contains the following provision: "The measures enumerated in article 10 may be adopted by the court of the place where the crime is committed or, from the viewpoint of the child's interests, by the court of the place where the child's family or where the persons with whom the child resides." Similarly, articles 21 and 22 of the Law on Social Services and Child Protection Agency and article 10 of the Law on Juvenile Courts declare that all appropriate measures will be taken to protect children whose safety is at risk.

184. It may be said therefore that Turkish law ascribes a great deal of importance to the child's benefits and considers their protection as a general principle. Thus, the Turkish legislation is in harmony with the CRC.

3. The right to life, survival and development (art. 6)

185. Article 17 (1) of the Constitution states that everybody has the right to life and protect and develop his or her material and spiritual existence and its article 19 (1) reiterates that everybody individually has the right of freedom and security. This means that citizens and aliens alike, children and adults, have guaranteed rights to live.

186. Article 453 of the Turkish Penal Code foresees imprisonment for four to eight years for any mother who kills her child born out of wedlock (to protect and preserve her prestige). This article aims at protecting the right to life of any infant who is not in a position to choose between

being born in or out of wedlock. However, the penalty introduced by this article is not sufficient to create a sufficient deterrent. For this reason, an increase of the penalty would be appropriate from the viewpoint of the objective envisaged in article 6 of the CRC.

4. Respect for the child's opinion (art. 12)

187. Articles 25 and 26 of the Turkish Constitution declare that everyone has the right of thought and opinion. No one can be forced to express or be blamed because of his/her thoughts and opinions.

188. The Turkish Civil Code expects the family to seek the child's opinion and rules in its article 265 that the parents will supervise the vocational education of their children and take into consideration as much as possible their strengths, capabilities and preferences. Article 254 says that a person with power of discernment may not be adopted against his/her will.

189. For some situations regarding the exercise of guardianship and tutorship on children, the courts have vast judicial discretion under articles 148 (1) and 274 (2). The judicial discretion is arranged by article 4 of the Civil Code by declaring that the judge will decide with the principles of equality and justice on matters in which the law grants a discretionary power to the court. This provision permits the judge to take the opinions of the child, whenever necessary, in exercising his/her discretion.

D. Civil rights and freedoms

1. Name and nationality (art. 7)

190. The rights stated in the part of the CRC dealing with the basic rights and freedoms of children are also reiterated by the Turkish Constitution in article 66. Rights and freedoms as prescribed in the Turkish Constitution are in conformity with the terms of the CRC:

> "Everyone bound to the Turkish State through the bond of citizenship is a Turk.
>
> "The child of a Turkish father or a Turkish mother is a Turk. The citizenship of a child of a foreign father and a Turkish mother shall be defined by law.
>
> "Citizenship can be acquired under the conditions stipulated by law, and shall be forfeited only in cases determined by law.
>
> "No Turk shall be deprived of citizenship, unless he/she commits an act incompatible with loyalty to the motherland."
>
> "Recourse to the courts, against the decisions and proceedings related to the deprivation of citizenship, shall not be denied."

191. The Citizenship Law deals in detail in its articles 1-18 with the acquisition of citizenship on the basis of the principles of jus soli and jus sanguinis. This law arranges the citizenship of children born to Turkish parents, to a Turkish mother and a foreign father, and to a foreign

mother and a Turkish father. The right to acquire Turkish citizenship is also granted to foreign children who are born in Turkey and do not acquire citizenship from their parents by birth or to stateless children who do not obtain citizenship because of the statelessness of any of their parents. Citizenship rights are also granted to children found within Turkish territory with unknown parents.

192. Children are named by their parents according to the provisions governing parenthood in article 264 (3) of the Civil Code. Article 259 of the Civil Code states that "A legitimate child will bear his or her father's name and acquire his citizenship rights."

193. Under article 311 (1), a child born out of wedlock and entrusted to the guardianship of the mother will bear her name, acquire her nationality and obtain vis-à-vis the mother and her relatives all rights and duties incumbent upon a legitimate child. Article 312 contains a provision to the effect that the child whose affinity to the father is established by a verdict of paternity will bear the father's name and acquire his citizenship. Thus, the citizenship rights of children contained in the CRC are provided for completely by the Turkish legislation.

194. All births are reported to the civil registry office within one month under article 39 of the Civil Code, which adds that a person who finds a child with unknown parents will deliver him/her to the State. Articles 5, 7, and 16 of Law No. 1587 on Civil Registry introduce a number of provisions regarding entries on the register. The amendments made by Law No. 3080 of 15 November 1984 expand the scope of the persons and agencies responsible for the registration of children in provisional articles 1 and 2.

195. Persons in charge of registering civic matters have to report all births, marriages, divorces, deaths, absentees, corrections of parentage, recognition and adoptions under article 5 of the said law.

196. The declaration is deemed to have been duly made when the birth certificates together with certified identity documents of the concerned persons are delivered by mail.

197. The health institutions and physicians have to prepare reports on all births and deaths under their control and to send them to the appropriate authorities pursuant to article 7. The birth certificates of all children are retained by the civil registries to which they are addressed.

198. Births are reported within one month by the father or, in case of his absence, unavailability, illness or interdiction, by the guardian or tutor under the signatures of two witnesses in accordance with article 16. There is an obligation to report the births at the maternity hospitals, in prisons and penitentiaries and on ships, trains and aircraft. Despite these strict measures on civil registry, there are still a large number of children who are not registered in rural areas.

199. Under article 49 of the Basic Law on National Education, the village administrators and administration boards are in charge of identifying the children who do not have an identity card and those who are not registered on the civil registries.

2. Preservation of identity (art. 8)

200. Under article 12 of the Turkish Constitution, "Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable" and "the fundamental rights and freedoms also include the duties and responsibilities of the individual towards society, his family, and other individuals".

201. The Turkish Civil Code introduces the arrangements on the protection of the person in its articles 23 through 34. According to its article 23, "Civil rights may not even partially be waived nor may they be restricted against the law and general ethics with the exception that the biological matter of human origin may, with the approval of concerned persons, be removed inoculated and transplanted." Article 24 (a) recognizes the right to sue and article 25, the right of protection of the name. Therefore the Turkish legislation is in harmony with the CRC.

3. Freedom of expression (art. 13)

202. The Turkish Constitution guarantees the freedom of speech and thought in its articles 25 and 26. According to article 25, "Everyone has the right to freedom of thought and opinion" and "No one shall be compelled to reveal his thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused on account of his thought and opinions." Article 26 of the Constitution is as follows:

> "Everyone has the right to express and disseminate his thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema and similar means to a system of licensing.
>
> "The exercise of these freedoms may be restricted for the purposes of preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and the private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.
>
> "No language prohibited by law shall be used in the expression and dissemination of thought. Any written or printed documents, phonograph records, magnetic or video tapes, and other means of expression used in contravention of this provision shall be seized by a duly issued decision of a judge or, in cases where delay is deemed prejudicial, by the competent authority designated by law. The authority issuing the seizure order shall notify the competent judge of its decision within twenty-four hours. The judge shall decide on the matter within three days.
>
> "Provisions regulating the use of means of disseminating information and ideas shall not be interpreted as a restriction unless they prevent the dissemination of information and thought."

203. Restrictions to freedom of expression and thought stated in the Constitution are in conformity with the European Convention on Human Rights.

4. Access to appropriate information (art. 17)

204. The Turkish Constitution provides freedom of press in its article 28 under the heading of provisions dealing with the freedom of press and publication. According to this article, the press is free and shall not be censored.

205. Law No. 1117 on the Protection of Minors Against Dangerous Publications introduces restrictions on periodicals and publications which are capable of having nefarious effects on the morals of persons under 18 years of age and also contains penal provisions.

206. Article 4 (m) in Part 2 covering the broadcasting principles in Law No. 3984 on the Establishment and Broadcasts of Radio and Television Facilities is on the prevention of broadcasts likely to exert an unfavourable influence on the physical, mental, psychic and moral development of minors. Article 12, covering the control of movie and video films and musical works harmful for minors, indicates that "The broadcast of inappropriate movie and video films and the performance of such musical works for minors under 16 years of age will not be permitted." The same article continues by saying that this minimum age limit shall be displayed in a non-ambiguous manner on the posters, photographs and handouts announcing them and in the titles of movie and video films.

207. Article 5 (9) of the Regulation on the Guidelines and Principles of Advertisement and Broadcasting on Radio and Television declares that children will not be used to convey commercial messages for products and services which they will not utilize directly themselves, nor may they appear in advertisements which contain aspects likely to impair their physical and psychological growth and development. A further provision of this article says that children may not appear in advertisements using the language, behaviour, clothing, make-up and appearance of adults. Article 10 of this regulation is about advertisements intended for children. These advertisements are defined as those oriented to persons under 15 years of age, covering the products and services that they will consume. Elements likely to exert adverse effects on their physical, sentimental, intellectual and social development may not be embodied in advertisements intended for children or those in which children are used.

208. The advertisement guiding principles which are outlined in article 18 (c) of the same regulation states that news bulletins, current programmes and children's hours may not be interrupted by advertisement spots if they last less than 30 minutes while article 18 (d) specifies that the time allocated for advertisements may not exceed six minutes in any one-hour broadcast period and advertisements may not be placed by subscripts, logos or frames in news bulletins and in religious and children's programmes.

209. Turkey ratified on 4 November 1993 the Law on the Establishment and Broadcast of Radio and Television Stations which introduced major innovations for the protection of children.

5. Freedom of thought, conscience and religion (art. 14)

210. As indicated under part D.3, articles 24, 25 and 26 of the Turkish Constitution are on the freedoms of thought, conscience and creed as basic individual rights and the Civil Code states in its article 265 that the parents manage and control their children's vocational education and take into account, as much as possible, their strengths, capabilities and desires.

211. Article 24 (4) of the Constitution states that the religion and ethics education will be given under State supervision and control, that religious culture and ethics will be taught among the compulsory topics in the primary and secondary education institutions and that any other religious education beyond this will be given only upon request and with the approval of legal representatives of the minors.

212. Pursuant to article 12 of the Law on Basic National Education, secularism is the guiding principle in the Turkish national education system.

6. Freedom of association and peaceful assembly (art. 15)

213. Article 33 of the Constitution says that everyone has the right to form associations without previous permission and no one shall be compelled to become or remain a member of an association.

214. Article 4 of Law No. 2908 on Associations states that all persons having the capability of using his/her civil rights and who are over 18 years of age may form associations without having to obtain a permission in advance. Article 16/1 of Law No. 2908 on Associations declares that all persons who complete their eighteenth year of age and have legal capacity may become members in associations.

215. In harmony with article 15 of the CRC, article 34 (1) of the Turkish Constitution, contains the right to organize meetings and demonstration marches by saying that everybody has the right to hold meetings without prior permission. Article 34 (2) of the Constitution states that, "The formalities, conditions, and procedures governing the exercise of the right to hold meetings and demonstration marches shall be prescribed by law."

216. Article 2 of the Law on Associations confirms that persons over 18 years of age and having legal capacity may establish associations without permission. However, students in public and private secondary educational institutions may not become founders of associations even if they have completed their eighteenth year of age.

7. Protection of privacy (art. 16)

217. Article 20 of the Turkish Constitution, which says that everyone has the right to demand respect for his/her private and family life, is in harmony with article 16 of the CRC. The Constitution's article 21 refers to the inviolability of residence. All relevant authorities are obliged to respect this right unless there is a decision issued by a judge in situations clearly enumerated by law.

218. Articles 193, 195 to 197 and 480 to 482 of the Turkish Penal Code offer protective measures for the inviolability of private life.

8. The right not to be subjected to torture, inhuman or degrading treatment or punishment (art. 37 (a))

219. According to article 17 of the Turkish Constitution, everybody has the right to life and to protect and develop his or her physical and spiritual integrity. The physical integrity of the individual is inviolable except under medical necessity and in cases prescribed by law. The individual shall not be subjected to scientific or medical experiments without his/her consent. Nobody may be tortured and subjected to penalties or treatment incompatible with human dignity. Article 19 of the Constitution states that everybody has the right to liberty and security.

220. Children not over 11 years of age at the time of the perpetration of a crime will not be prosecuted or punished and if they commit misdemeanours necessitating imprisonment of one year or more, they may not be placed in State penitentiaries or prisons and will be delivered to their parents or tutors in accordance with article 53 (1) of the Turkish Penal Code of which article 54 states that those between 11 and 15 years of age at the time of perpetration of a crime will be subject to article 53 if they lack power of discernment and the ability to judge. If, however, the child is conscious of the fact that the act which he/she committed constitutes a crime, the child will be punished with reductions in the penalty.

E. Family environment and alternative care

1. Parental guidance and the child's evolving capacities (art. 5)

221. According to the Turkish Civil Code, article 264, parents are entrusted with the duty to raise their children with the best means at their disposal and to provide appropriate training for those who are handicapped or mentally retarded. Article 265 states that the parents orient the vocational training of their children, considering their capabilities and desires as much as possible.

222. An important condition of adopting a correct decision on the vocational orientation of the child is the need to know the child's interest, aptitude and expectations. For this reason, the child should be given the chance to air his/her opinions regarding the decision concerning his/her future.

223. Under article 266 of the Turkish Civil Code, the duty and responsibility of determining the child's religious education belong to the parents. Contracts restricting this parental right are absolutely void. The provisions of the Turkish Civil Code are, in this respect, in harmony with those of the CRC.

2. Parental responsibilities (art. 18, paras.1-2)

224. The primary responsibility of the parents in raising the children and the need for taking into account their security are laid down in article 18 (1) of the CRC.

225. The Turkish Civil Code, for its part, is based on the principle that the raising of children by the parents themselves is the ideal solution. According to articles 262 and 264 of the Civil

Code, the parents are under obligation to raise their children and to treat them with affection and care. Custody is given to the parents to enable them to fulfil this task. They, as a rule, use the custody right jointly and both father and mother have equal rights.

226. The Turkish Civil Code created the institution of tutorship to protect the legal rights of minors in case the guardianship system does not function. According to article 354, if both parents of a minor are deceased or their guardianship rights are withdrawn, the judge will appoint a tutor for the child. Under the subarticle, public servants must report the matter to the nearest magistrate's court when they discover, during the performance of their duties, that a child is left without guardians. Any citizen may also inform the court of similar situations. Upon receipt of this information, the magistrate's court will appoint a tutor for the child.

227. Subarticle 3 of article 354 of the Civil Code guarantees the right of parents to avail themselves of the childcare and support services.

228. The Turkish Labour Law introduced the obligation for public and private sector enterprises to establish day-care centres for the children of their employees and workers. The Labour Law and the law on Civil Servants allow maternity leave for working women for up to three weeks before and two months after delivery.

3. Separation from parents (art. 9)

229. The Turkish legal system takes up the issue of the child's separation from the parents in the context of the parental guardianship rights and duties since these rights and duties concerning the development of the children are based on natural parentage. Guardianship, just like marriage, is closely related to societal order and, for this reason, the State controls whether it is duly performed and complied with.

230. Articles 41 and 48 of the Constitution and various provisions of the Civil Code established a series of arrangements for ensuring the cohabitation of children with their parents.

231. At the time of the formulation of the parts of the Civil Code concerning children's rights, the security of children had been the guiding factor under the then prevailing conditions. Children's rights prevailed over those of the parents in the provisions dealing with guardianship and efficient systems were established for the protection of children's safety in all other matters not falling within the field of guardianship.

232. These arrangements aim at guiding parents and public bodies towards the best interests of the child. Article 262 underlines the need for taking into account children's security in the use of guardianship rights by the parents. The first paragraph of this article confirms that the child will not be removed from his/her parents if there are no compelling legal requirements. This provision is in full conformity with article 9 of the CRC.

233. In cases where parents fail to fulfil their obligations toward their children or neglect them, the judge can implement the necessary measures envisaged under the Turkish Civil Code. Measures falling within the first category are mentioned in article 272 which are not enumerated

and left to the judge's discretion. Appointment of a counsellor is one of the measures. The removal of children from parental guardianship and the withdrawal of guardianship is a second category measure.

234. When the child's physical and mental development is likely to be impaired or the child is emotionally abandoned, he/she may be separated from the parents under article 273 of the Civil Code. The adoption of this measure might not influence the parental guardianship right and the child may be placed in a foster family or institution. This measure may also be adopted upon the request of the parents.

235. The separation from parents is by far the most severe measure for the child's protection under the Civil Code. The general condition for resorting to this measure is, under article 272 of the Code, the inability of the parents to raise the child properly. The guardianship right will be withdrawn by a court decision from parents who are unable to use this right, who are under restriction or who seriously misuse or neglect their powers. In such cases, the magistrate's court will immediately appoint a tutor pursuant to article 354.

236. Guardianship may also be terminated upon the adoption of the child by a third person under article 257 or disowning of paternity or termination of ascendance relationship under articles 242, 245 and 258 which separate the child from his/her natural parents

237. The Civil Code contains a serious of provisions requiring the child's opinion to be solicited. Other important reasons for terminations of the guardianship rights are the divorce of the parents or the annulment of the marriage. In these cases, guardianship will terminate for one or, if the circumstances so dictate, both of the parents. Following the finalization of the divorce or annulment verdicts, guardianship may be withdrawn from the concerned party only by court decision, although this will not prevent the party from which this right is withdrawn from maintaining personal relations with the child.

238. There are no provisions in the Turkish legislation contrary to article 9 (2) of the CRC which requires that the opinions of all concerned parties be sought with respect to the actions taken under subarticle 1 thereof. In fact, comments are taken from minors with power of discernment on this account. For actions dealing with younger children, the court resolves on the matter after hearing the parents and considering the child's interest. The courts should thoroughly examine the socio-economic status of the family to which the child will be entrusted, the place where the child will live and the school which he/she will attend. For these purposes, establishment of institutions providing assistance is deemed necessary.

239. According to article 9 (3) of the CRC, the child has the right to maintain personal relations with his/her parents; parents also have the same right. However, the courts can decide the contrary if the primary interests of the child require the denial of such relations. Where the court resolves that personal relations should be maintained between the parents and the child, the party to whom the guardianship is entrusted is under the obligation to permit the other party to maintain relations with the child.

240. Children may leave home as a result of grave turbulence within the family, mistreatment due to poverty, forcible employment, inducement to illegal activities or simply the child's

waywardness, as stated in article 3 of the Law on the Social Services and Child Protection Agency or articles 11 and 12 of the Law on Juvenile Courts. Under such circumstances, the matter is taken up in the context of the laws on protecting minors and the children are returned to their families or to social assistance institutions through the police.

241. Although there are no specific rules in the Turkish legal system for handling the situations referred to in article 9 (4) of the CRC, no provisions prohibit the notification of the concerned officials when the children are separated from their parents or from one of them due to their arrest, imprisonment, death or deportation. However, article 9 (4) has become a part of the national legislation since Turkey ratified the CRC.

4. Family reunification (art. 10)

242. Article 10 (1) of the CRC provides guarantees for the exit from or entry to the country for the purpose of family reunification. The Turkish laws do not have specific clauses governing such exits and entries. The parents or one of them or the children may freely enter the country. With respect to exit, no permit is required. For these reasons, persons wishing to leave the country for family reunification purposes may do so without hindrance. The main problem nevertheless arises when a Turkish citizen wishes to travel abroad for family reunification purposes since some of the European countries where Turkish citizens live in large numbers apply restrictions for granting visas. It is evidence that this practice prevents family reunification as stated in article 10 (1) of the CRC.

5. Recovery of maintenance for the child (art. 27, para. 4)

243. Article 27 of the CRC guarantees the maintenance for children and Turkish law has the necessary arrangements for ensuring the coverage of a child's maintenance costs.

244. The party to whom guardianship is not granted has to share in the maintenance and education expenses of the child commensurate with his or her revenues, under article 148 (2) of the Civil Code. But, article 27 (4) of the CRC regarding the improvement of the maintenance payable to children does not find efficient application under the prevailing conditions since it is impossible to determine the true revenues of the party liable to remit maintenance.

245. Under article 306 of the Turkish Civil Code, maintenance is determined in connection with paternity verdicts having financial consequences. The child receives this at the beginning of each month until the completion of his/her eighteenth year of age.

246. Articles 161 and 162 of the Turkish Civil Code enable the judge to determine the amount of maintenance necessary for the other party to have a separate residence. The child's right to demand maintenance from the parent who abandons the home and fails to provide the necessary means for sustenance is based on this provision. The maintenance payable by one of the parents to the other and to the children during the course of the divorce case, called "sustenance alimony", under article 137 arises from the maintenance liability.

247. Under article 315, the child also has the right to demand maintenance.

248. Making the maintenance relevant to present conditions is possible pursuant to article 145 (3).

249. The above provisions of the Turkish Civil Code fulfil the requirements of article 27 (4) of the CRC, which states that "States parties shall take all appropriate measures to secure the recovery of maintenance for the child, from the parents or other persons having financial responsibility for the child both within the State party and from abroad."

250. Similarly, Turkey has signed a number of international conventions for guaranteeing the maintenance of children whose parents live in different countries. The Convention on the Law Applicable to the Maintenance Obligations concluded at the Hague on 2 October 1973 entered into force for Turkey on 1 January 1983. This Convention introduced the application of the principle of lex fori of the claimant without the condition of reciprocity. The other convention also dated 2 October 1973, is entitled "Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Concluded". It has been ratified by Turkey and thus become a part of the Turkish national law.

251. The common feature of both conventions is the fact that they are applicable to cases containing expatriate elements and cover the cases where the maintenance claiming child and payer live in different countries. Consequently, by ratifying these two conventions, Turkey has fulfilled the requirements of article 27 of the CRC since 1983. For the solution of maintenance issues not covered by these conventions, the provisions of the Law on International Private Law and Procedure Implementation will be applied.

6. Provision of special assistance and protection services to children deprived of a family environment (art. 20)

252. Article 61 (4) of the Constitution is in harmony with article 20 (1) of the CRC which obliges the State to adopt all appropriate measures for reintegrating into the society the child in need of protection. Although the primary duty of protecting children belongs to the parents, the State undertakes this task under the provisions of the Turkish Civil Code and the Law on the Social Services and Child Protection Agency if the parents are not available or are unable to perform their duty, as stated in the preceding paragraphs.

253. Article 20 (2) of the CRC requires the signatory States to provide care for the children who are temporarily or permanently without a family. The Turkish laws and particularly the Civil Code contain ample provisions to that effect. According to article 273 of the Civil Code, the judge will separate children from their parents and place them with another family or an institution if it becomes certain that their physical or mental health are endangered or if the children are morally abandoned. Where the children continue disregarding the instructions of their parents because of their insubordination and if no other remedies are found, the judge may place them with another family upon request of the parents. The charges for such measures will be paid by the parents or, if they are unable to meet them, by the State.

254. Various other provisions concerning the protection of children are embodied, in addition to the Civil Code, in the Law on Municipalities and Civil Procedure Law, but they are most elaborately detailed in the Law on Social Services and Protection of Children. The latter places

all services designed to protect children under State supervision within the General Directorate of the Social Services and Child Protection Agency. Pursuant to article 4 (e) of the above-mentioned law, all social services intended to protect children needing support will be performed by the institution established by this law. It is suggested in this respect that efforts must be made by voluntary organizations.

255. Social services for children in need of protection can only be carried out by the Social Services and Child Protection Agency, as clearly stated in Law No. 2828. The children who need protection are those whose physical, emotional and moral development is endangered, such as those:

(a) Who have no mother and/or father;

(b) Whose mother or father, or both of them, are unknown;

(c) Who have been abandoned by the mother and/or father;

(d) Who, due to neglect, are faced with social risks, such as begging, consuming alcohol, etc.

Children considered within the limits of this definition can profit from the above-mentioned services after a detailed social study by the competent authority.

256. The social services for children in need of protection are carried out through Children's Homes, for children between 0-12 years of age, and training institutions for children between 13-18 years of age. At present, there are 7,162 children in 75 children's homes and 9,502 young adults in 95 training institutions. On the other hand, about 500 children are under the protection of foster families. About 1,500 children have profited from the foster family services which started in 1961.

257. "Child adoption" becomes an option when the child who needs protection is an orphan. In this way, protection within the family, which is one of all the protection methods outside the institution, is provided.

258. It is difficult to make a definite estimate of the number of children who need protection in Turkey. According to the 1985 census, 47.40 per cent of the total population is between the ages of 0-18 and different figures have been concluded depending on the methods used for determining them. In fact, the number of destitute or completely abandoned children is not very high and it is known that the Social Services and Child Protection Agency provides the necessary services to such children. However, the number of children who need social assistance programmes or counselling services is estimated to be around 480,000.

259. Law No. 2828 has laid down clear procedures for the protection of disabled people outside institutions.

260. The Social Aid Instruction of the Social Services and Child Protection Agency, which went into effect on 28 September 1986, outlines the priorities in social services to be given by

the Social Services and Child Protection Agency. By this Instruction, an area not previously covered by the Turkish social security system has become legally regulated and an important step has been taken towards closing the gap in "Family Assistance".

261. Another provision requiring the adoption of measures to protect children needing support may be found in the Law on the Establishment, Duties and Procedures of Juvenile Courts. Under article 14, entitled "Implementation of Measures Regarding Minors Needing Support", one of the measures enumerated in article 10 will be implemented by the competent juvenile court upon the request of the public prosecutor, guardians or tutors of minors whose physical or mental development is endangered or who display strong insubordination against their parents.

262. The absence of clear-cut provisions in the Law on the Social Services and Child Protection Agency are overcome by the judges through provisions of the Civil Code. Solutions introduced by the Turkish legal system in accordance with article 20 (3) of the CRC deal with the natural parents, foster families, placement at special institutions and adoption. Likewise, the children so protected are allowed to remain at the youth homes until they become self-sufficient in order to avoid the problems likely to arise during the transition from life at the institutions to life at home after the age of 18. The youth homes provide for separate facilities for boys and girls.

263. Before the adoption of the measures to be taken pursuant to article 20 of the Law on Juvenile Courts, inquiries are made through social service specialists, pedagogues, psychologists and psychiatrists on such matters as the child's family and social background and educational performance, under article 20. Inquiries are also appropriate in advance of the introduction of a protection decision. According to article 11 of the regulations, a social worker or, if there is none, the person selected for this purpose by the provincial directorate of social services, will make an in-depth inquiry into the child's background, his or her parents, the socio-economic situation of the family and of the area, the location where the child had lived until then.

264. The protection decision is valid as a rule until the child reaches maturity. It may however be rescinded by the court upon request of the institution if the conditions requiring such a decision do not exist any longer or it may be continued beyond the child's maturity subject to his/her consent under article 24 of the Law on the Social Services and Child Protection Agency.

265. Social Aid Services is one of the major services of the Social Services and Child Protection Agency. These services are implemented according to the Regulation on Cash and in Kind Social Assistance of 28 September 1986 and its coverage was enlarged for aid seekers on 29 December 1993 and 10 April 1997 by changing the regulation. According to this regulation, aid seekers are defined as children who need protection, children who should be placed in an institution and who are awaiting a place, aged and disabled people who fell into poverty and are at the same time vulnerable, secondary school and university students who cannot meet their basic needs on their own and whose parents cannot help them. Aid in kind includes food, clothing, fuel, stationery, medical instruments and instruments for rehabilitation. Aid in cash is equal to the amount of social aid in the regulation. This aid is 20 per cent of the salary of the highest official (including bonus pays).

266. The most widespread support given in Turkey is protection at care institutions. Children 0-12 are settled in the Children's Homes and those in the 13-18 age group are transferred to separate orphanages for boys and girls. A change in the policy was made in the recent past whereby the home-type systems were established for smaller groups, but this project has still not been expanded enough because of financial problems.

267. The adoption service (article 21 of the CRC) is one from which particularly the children of the age group 0-6 benefit. In this process, governed by article 254 of the Civil Code which takes into consideration the children's prime interests and their rights to life and to develop, children's opinions are sought if they are at an age enabling them to express themselves. This issue is taken up in detail in section 7 below.

268. Foster families have been used for a considerable number of years in Turkey as required by article 29 (3) of the CRC with due consideration of the interests of the children whose opinions and consent are also taken if they are able to discern the situation. Foster Family Services is one of the services of the Social Services and Child Protection Agency. Foster Family Services are based on the Civil Code No. 273 and Law No. 2828 on the Social Services and Child Protection Agency. The Agency is trying to broaden this service with projects dated 1961 and 1993. The research proved that children who have grown up in foster families are healthier and more developed that those who have grown up in the Agency's institutions.

269. In line with this view, to increase the efficiency of Foster Family Services and to broaden these services in the community, a huge orientation and advertisement campaign began with the patronage of the President of the Republic of Turkey, H.E. Süleyman Demirel, on 25 May 1998. With the help of this campaign in the last one year, 66 children were accommodated in foster families. At the beginning of the campaign, there were 269 children and now there are more than 305 children who are cared for in foster families.

270. In 1998, in Istanbul, a four-step programme was initiated with the support of non-governmental organizations, the Istanbul Bar Association, the Office of the Governor of Istanbul and the local authorities. Under this programme, the Counselling Caravan at Kadıköy Quay, the First Step Station at Küçükbakkalköy, the Rehabilitation Centre at Yeldeğirmeni started to function and the construction of the Rehabilitation Centre for Volatile Substance Addicts in Ağaçlı is under way. Studies for a new programme are also under way. In this framework, the Istanbul Beyoğlu Seventy-fifth Year Child Protection Centre will serve working children. A centre was opened in 1995 in Izmir and in 1997 a Rehabilitation Centre for Street Children was founded in Ankara. Today, there are three such centres in Izmir. Studies for street children in cities like Mersin, Diyarbakır, Batman and Şanlıurfa are still continuing and these centres will be opened in 1999. There is also a project called "Centre for Working Children in the Streets of Ankara" which will serve working street children. This project is sponsored by both the Metropolitan Municipality of Ankara and the ILO. Centres which will give services to children and their families will be opened at Diyarbakır, Mersin and Batman.

271. Community centres are the institutions which target better living conditions for rural people. In East and South-East Anatolia, which has witnessed high migration rates, there are 20 community centres which work to increase the living standards of the people in the region and creating equal development opportunities for them.

7. Adoption (art. 21)

272. In the Turkish legal system, the child's best interests play a decisive role in adoption regulations, as required by article 21 (a) of the CRC. Adoption bestows upon the adopted one the same rights as the natural children of the adopting family. Under article 256, adoption is done by an official certificate under the approval of the competent magistrate's court and duly entered on the civil register. The judge shall carry out ex officio investigations as he deems necessary and shall refuse the adoption request unless he finds reasonable the justifications brought by the parties.

273. Under article 257 of the Civil Code, the adopted child takes the name of his/her adoptive parents and becomes their legal heir. The rights and responsibilities of the biological parents are thereby transferred to the adoptive ones. The Turkish Citizenship Law provides, in its article 3, that a foreign minor adopted by a Turkish family will acquire Turkish nationality in order to avoid statelessness. Legal documents underlying the adoption procedure may not be revealed to any third party without a court decision or the adoptee's consent.

274. Provisions in the Turkish legal system for adoption aim at protecting the child's prime interests and consequently comply with article 21 of the CRC.

275. Article 21 (b) of the CRC deals with international adoptions. In this context, circular No. 3 dated 9 March 1994 of the General Directorate of the Social Services and Child Protection Agency allows for the carrying out of adoption in Turkey, lists the applicants desiring to adopt children in chronological order and grants the priority to Turkish nationals living in Turkey, followed by Turkish families abroad, followed by families in which one of the parents is a Turkish national and finally the families of foreign nationality. This provision is in harmony with the rule stated in article 21 (b) of the CRC. Where international adoption of children in Turkey is involved, article 18 of the International Private Law and Civil Procedure Law is applied.

276. From the viewpoint of Turkish law, sufficient mechanisms exist for ensuring that the adoption does not become an occasion for illicit benefits. Under article 256 of the Civil Code, adoption is made by virtue of an official certificate prepared upon the approval of the judge who carries out ex officio investigations as required by the circumstances. Turkey is a member of the International Social Services which makes known the social status of the alien families desiring to adopt children and reduces the risk of adoptions for the purpose of illicit benefits. However, it is necessary that an international mechanism be established to supervise and control the adoptions which may be intended for the outright sale of children. Adoptions of this kind should not be handled as acts that may be prevented by the efforts of a single country since this is an issue which demands international cooperation.

277. Bilateral and multilateral agreements regarding the adoption process and its enforcement are encouraged by article 21 (e) of the CRC. Pursuant to this provision, Turkey ratified the convention relating to the prevention of trafficking in women and children.

8. Illicit transfer and non-return (art. 11)

278. Article 11 (1) of the CRC governs the procedures against the illegal expatriation and repatriation of children. The illegal expatriation of children has two dimensions, one concerning civil law and the other concerning penal law. As the matter is of concern for several countries at the same time, no single country may achieve success by isolated efforts and legislation. For this reason, international agreements open to all countries concerned are suggested.

279. Article 11 (2) of the CRC requires that the States parties should enter into bilateral or multilateral arrangements or adhere to the existing international conventions. There are two international instruments in this field: the Convention on the Repatriation of Children, which has been ratified by Turkey, and the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. This Convention was signed by Turkey on 21 January 1997.

9. Protection of children from violence, abuse and neglect and the treatment of victims (art. 19, paras. 1-2, and art. 39)

280. Article 19 (1) of the CRC requires the States parties to introduce all legal, administrative, social, educational and other measures to ensure that children are protected from physical and mental violence, injury and abuse and all other similar treatments while under the care of their parents or any one of them, guardians, tutors or any persons in charge of their care.

281. This legislation is laid down in the Turkish Civil and Penal Codes. Articles 272 to 275 of the former has provisions for the protection of children from physical and mental abuse, violence, exploitation and all other similar treatment by their parents. According to article 272, a judge may remove a child from his or her parents for placement with a family or institution if he finds that the child's physical or mental development is impaired or if the child is morally abandoned. Articles 274 and 275 of the Civil Code deal with the withdrawal of guardianship. The former renders it possible for a judge to withdraw guardianship rights from the parents and appoint a tutor when the parents are unable to fulfil their relevant duties or are prohibited from doing so due to misuse of their powers or excessive negligence. As the ideal solution is to have the child raised with his/her own biological parents, the withdrawal decision will be repealed when the conditions necessitating the withdrawal are eliminated and the guardianship rights are returned to the parents. If the guardianship is withdrawn under article 277 of the Civil Code, parents will continue to bear the costs of raising and protecting the child.

282. If the tutor misuses this power or commits excessive negligence, he will be withdrawn from his functions by the judge under article 427 of the Civil Code.

283. The Turkish Penal Code, on the other hand, has provisions against cases of misuse. The Civil Code states that provisions concerning a minor's assets are void. Article 281 of the Civil Code declares that all revenues from the custody of a minor are to be used for his/her housing and feeding. This provision permits the parents, with a few exceptions, to utilize the minor's property in any manner they deem fit and foresees that the excess will be added to the patrimony of the parents. Since, however, the acts and actions of the parents are not performed under the supervision and guidance of the judge, arrangements should be in the light of the prevailing circumstances of the country and the prime interests of the child.

284. Articles 414 to 416 deal with sexual abuse and introduce a variety of penalties depending on whether the victim is below 15 or 18 years of age. Where these acts are perpetrated by one of the guardians or a tutor, instructor, teacher, servant or guard or by any person having influence on such minors, the penalties are increased by one half under article 417.

285. Inducement to prostitution is addressed in articles 435 and 436 of the Turkish Penal Code which introduces an aggravating circumstance where the victim is under 15 or 21 years of age. A further aggravating circumstance is such inducement made by a husband, brother, sister, guardian, tutor, instructor, teacher or servant of the child. Withdrawal of guardianship or tutorship is also involved in such cases pursuant to article 437.

286. Pursuant to article 477, people who cause damage to persons under their guidance by means of misusing their duties to train, educate, raise, guard and protect them will be imprisoned for up to 18 months.

287. According to article 478, persons who mishandle, in an unaffectionate manner, any minors under 12 years of age under their care will be punished with imprisonment of up to 30 months. Where these acts are perpetrated by guardians or tutors, a decision will be taken to repeal the guardianship or tutorship according to article 479.

288. The administrative, social and educational measures relevant to article 19 of the CRC are handled under the heading of "abused children". Article 19 (2) of the CRC identifies the nature of protection measures. Rules contained in the Turkish legislation (Civil Code and Penal Code) include some penalties such as the withdrawal of guardianship. These penalties are adequate for the prevention of cases of abuse.

10. Periodic control of children placed in a different environment for their protection and care (art. 25)

289. Article 25 of the CRC requires that the children placed under the protection of public agencies or treated for physical or mental disorders should be periodically monitored to verify whether the protection or treatment serves the intended purpose. The form and nature of the protection measures to be adopted by the juvenile courts are indicated in Law No. 2253 on the Establishment, Duties and Trial Procedures of Juvenile Courts in which the subject of implementation is addressed in articles 10 through 14, depending on the child's age, health and needs.

290. Continuous follow-up was stated in article 11 (d) of the Regulation on Nurseries and Children's Homes as a function of the General Directorate of the Social Services and Child Protection Agency, the duties of which were enumerated as monitoring the socio-economic situation of the child's family, if he/she has any, subsequent to his/her admission to these institutions and returning of the child to his/her parents when their situation improves and writing a report to serve as the basis of the decision for the termination of protection measures.

291. Article 14 of the Regulation on Foster Families arranges "the manner in which the protective family and the child placed with it will be observed and monitored on a regular basis by the social service workers and the required professional work will be performed with a view to solving the problems which may arise".

292. Article 19 of the Regulation on cash and in Kind Social Assistance states that the support process of the persons to whom assistance is granted will be monitored at regular intervals and detailed information and documents will be gathered on such persons. The assistance will cease when it is determined that the concerned persons' material conditions have become adequate to sustain life without external support.

293. Article 29 of Law No. 2253 entitled "Supervision" declares that minors against whom supervisory measures are taken and whose sentences are postponed may be placed under control for up to three years and the persons in charge of maintaining such minors will be informed of the purposes of the control and the responsibilities they will have in connection with this decision. This article adds that the decision will indicate the duration of the control which will continue at least for the probation period in case of conditional postponement of sentences.

294. Article 31 enumerating the duties of the supervisory officials declares that reports will be prepared at regular intervals on the conduct and behaviour of the minor subject to control and the frequency of the controls is thereby established.

295. In conclusion, the legal and administrative structures for the protection of children without families conform to article 20 of the CRC.

F. Basic health and welfare of children

1. Living standards (art. 27, paras. 1-3)

296. Information programmes are conducted together with health care efforts for offering an adequate living standard to ensure the physical, mental and social development of children. They also aim to educate the handicapped and to reduce the risks of becoming handicapped. The General Directorate of the Social Services and Child Protection Agency is rather active in this field through its provincial directorates all over Turkey.

297. The Constitutional provisions on living standards are as follows:

> Article 17 (1): "Everybody has the right to life and the right to protect and develop his material and spiritual entity".
>
> Article 41 (2): "The State shall take necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially the protection of the mother and children; and for family planning education and application".

Article 49 (2): "The State shall take necessary measures to raise the standard of living of workers, to protect them in order to improve the general conditions of labour, to promote labour, and to create suitable economic conditions for prevention of unemployment".

Article 59 (1): The State shall take measures to develop the physical and mental health of Turkish citizens of all ages ..."

298. In the fight against poverty, with its Regulation on Cash and in Kind Social Assistance, the General Directorate of the Social Services and Child Protection Agency provides financial aid to people who cannot meet their basic needs. Social workers conduct the necessary research to find those in need. Those living in poverty are given material (food, clothing, medicine, medical instruments, fuel, etc.) and financial aid. Financial aid is distributed to these people monthly for six months, one year or two years. The monthly amount of social aid, according to the aforementioned regulation, will be 20 per cent of the salary, including the bonus payment, of the highest official.

2. Survival and development (art. 6, para. 2)

299. The age group of the child has special importance within the general health system since children represent a sizeable part of the population.

300. According to the results of the 1993 census and health survey in Turkey, the average age for the first marriage for females is 18. Only 62.8 per cent of women use a birth control method. The total fertility rate is 2.7 and the birth rate is 0.23 per cent. (The entire population is considered in the total fertility rate and the 15 to 49 age group of the population is taken into account in the birth rate.)

301. According to research findings, the infant mortality rate in the rural areas where children die in greatest numbers before reaching one year of age is approximately one third higher than in the urban areas. A quarter of the children living in rural areas have a greater chance of contracting respiratory tract infections than children in urban areas.

302. Annually, of approximately 1,358,000 live births, only 59.6 per cent occur in health institutions.

303. Although the studies tend to show a rapid decrease in the infant mortality rate, the desired level is yet to be achieved. According to the results of the 1993 study mentioned above, the average infant mortality rate is 52.6 per 1,000 live births, which rises to 60 per 1,000 in some regions; 29.2 per 1,000 infant deaths occur during the first four weeks after birth and 60.9 per 1,000 occur in the first five years. It should be remembered that 86 per cent of these deaths occur before the completion of the first year of life. About 60 per cent of the infant mortality cases are ascribed to preventable diseases. Despite the intensity of special-purpose health programmes conducted to keep the children alive and to protect their health, the insufficiency of the system and infrastructure and the problems arising from the personnel turnover prevent the attainment of the desired results. Presently, 64.7 per cent of all children in the 12- to 23-month age group have received full inoculation within the scope of the expanded immunization programme, though this rate falls to 40.6 per cent in the eastern part of the

country. These figures show that an excessive number of infants still cannot be protected from preventable diseases. Acute respiratory tract infections and diarrhoea constitute the other two important causes of infant deaths.

304. In 1995, the share of health investments within the total public sector fixed investments was 3.3 per cent.

3. Disabled children (art. 23)

305. According to article 8/III of the Basic Law of National Education, the duty of providing education and training to the children with special educational needs has been given to the Ministry of National Education with the statement that "Special measures will be taken to train the children who need special education and protection." The functions of the Special Education, Guidance and Counselling Services described by Law No. 3797 Concerning the Organization and the Duties of the Ministry of National Education are as follows:

(a) To carry out all duties and services regarding educational methods used in special educational schools and classes, guidance and research centres, occupational schools, vocational education centres, other schools and educational institutions;

(b) To prepare the educational and instructional programmes, textbooks and other educational materials used by the schools and educational institutions.

306. As a result of the increase in the need for special educational and guidance services nationwide, Law No. 2926 on Children with Special Educational Needs was enacted in 1983 in order to provide these services more effectively and widely. After the evaluation of 13 years of implementation of this law, it was found that structural modifications are needed in the area of special education.

307. For the purpose of overcoming the problems encountered by individuals with special educational needs, their families and their educators, new legislation has been prepared by considering the existing status of education for individuals with special educational needs and the recent developments and successful practices in this area. Being potentially a guide for public and private investments and practices, the Decree Equivalent to Law No. 573 Concerning Private Education was enacted on 6 June 1997. Immediately by its enactment, old Law No. 2926 became ineffective. The new Decree Equivalent to Law Concerning Private Education has facilitated overcoming the problems encountered in the existing practices and using the available resources more rationally.

Special classes

308. In addition to public institutions and organizations, real persons and legal entities may establish special education schools and classes for children with special needs under Law No. 625 on private Education Institutions. Through the activities carried out by federations, associations and special education centres, the delivery of educational services for such individuals is diversified. A study to determine the exact number of such individuals by the State Institute of Statistics is under way.

309. The content of the main articles concerning special classes of Law No. 625 on Private Education Institutions are listed below:

Article 71 - Special classes like:

(a) Classes for blind and visually handicapped students

(b) Classes for deaf students and students with hearing problems

(c) Semi-special classes

(d) Upper special classes

(e) Classes for child prodigies

can be established for children who are in need of special training, who cannot sufficiently benefit from the programme of the school at the public and private primary and secondary schools and at special training institutions, by making use of programmes that are prepared by taking into consideration their abilities, fields of interest, disabilities and capabilities.

Partially blind and deaf children will be admitted to special education and other schools and those who are blind or deaf and who are superior in their studies can be placed at classes in normal schools.

Article 72 - At least 10 students with the same handicap will be required for the establishment of a special class. Where the number of students is less than 10, these students will be exempted from some of the subjects in the curricula depending on their situations and constraints.

Article 74 - Where there are students of different handicapped groups needing special education in public and private primary, secondary and senior high schools and special schools, additional classes may not be established and these students will be admitted to normal classes and sent to additional classes to support their education.

Article 75 - Ambulatory instructing systems will be instituted in areas where there is a limited number of handicapped students for whom special classes may not be established.

310. Tutors who are trained to instruct students from one or more handicapped groups can be employed in special classes, auxiliary classrooms and mobile training programmes.

311. The Primary Education and Training Law article 12 includes a provision stating "It is provided that children, who are in the age of compulsory primary education, but who are mentally, physically, psychologically or socially disabled, get special education and training."

312. According to article 39 of the Apprenticeship and Vocational Training Law No. 3308, "The Ministry (of National Education) holds special vocational courses to prepare people needing special training for professions in business life. The fields of interest, needs and abilities

of these people are taken into consideration in the preparation and execution of these courses. Those attending these courses benefit from the rights given by this Law to apprentices and students."

313. The Law on the Social Services and Child Protection Agency introduces the following provisions on handicapped people:

Article 3/c - "While executing social services programmes, priority is to be given to children in need of protection, to the disabled in need and elderly people in need."

Article 4/1 - "Every kind of measure is to be taken in order to provide that people in need, disabled people and the elderly people continue their lives in health, tranquillity and security; that care and rehabilitation is provided to the handicapped in need, to ensure that they become self-sufficient people in the society; and that permanent care is provided to those who cannot be cured."

Article 9 - "Family Advisory and Rehabilitation Centres are defined as daily social service institutions that provide services to families and disabled children for promoting harmony in families, preparing disabled children for school training and making disabled children self-reliant and self-sufficient."

Article 9/b - "The duty of the foundation is first to identify children, disabled and elderly people, who are in need of protection, care or help, to give necessary services in order to provide these people with protection, care, development and rehabilitation, and to establish and operate social service institutions, defined in article 3, within the principles mentioned in article 4."

Article 25 - "The education and training of school-age children who are in need of protection is completed in schools of the Ministry of National Education and other State institutions".

314. Children who cannot attend school for various reasons are employed in the workplaces of the State or private persons and receive pay and training. Some of the salary of children employed in this way is paid as pocket money; the rest of the salary is credited to an account at a national bank under the name of that child. The starting date and the amount of the salary are determined between the administration and employer, according to the local standards and existing values. The principles on this subject are outlined by a regulation.

315. The education and training of blind, deaf, mute or physically handicapped as well as mentally or psychologically disordered children or those who are in a similar situation and who need special training and protection is to be completed in schools established by the Ministry of National Education.

316. The Regulation on Location, Examination, Care and Rehabilitation of the General Directorate of the Social Services and Child Protection Agency has the following provisions:

Article 1 - The purpose of this Regulation is to introduce rules for the location, examination, institutional care, assistance at home and rehabilitation of persons who are not able to cope with the routine daily activities as a result of their handicaps, to identify the nature of services to be provided and the duties and responsibilities of the personnel.

Article 4 - Services of rehabilitation centres such as recreation and counselling will be provided as home support facilities for the visually handicapped, spastics, orthopaedically and audially handicapped and mentally retarded.

Article 5 - The responsibility for locating, assisting, caring for and training the handicapped persons is vested with the provincial directorates.

317. Local administrative officials, health institutions, village headmen and general and municipal police forces are responsible for reporting the existence of such persons. Other public bodies and agencies, citizens and relatives of the handicapped may also report them.

318. The Essential Law for Medical Services has commissioned the Ministry of Health to provide protective health services. In a circular sent to hospitals, it is required that modifications be made in hospitals to ensure that disabled people can also use these facilities. With an amendment to the Regulation on Private Hospitals, building ramps also became an obligation for private hospitals. A new regulation has been prepared to give priority to disabled people at the hospitals and clinics and studies on preparing identification cards for these people are also under way.

319. The preparation of a regulation on the standardization of Health Council reports, which will be of special interest to handicapped people, is in its final stages.

320. The preparation of a questionnaire for building a profile of handicapped people, in order to determine their demographic, social, education and cultural standing, which will be performed by the State Institute of Statistics, continues with the contributions of the General Directorate of Medical Services.

321. The Ministry of Health, through cooperating with an association, opened the "Early Intervention Centre" in order to identify handicapped children 0-6 years of age, to treat and rehabilitate disabled children and to give guidance training to their families. Depending on the results, this activity will be spread all over the country.

322. It becomes evident from perusal of the legislation in force in Turkey that laws, regulations, instructions and circulars constitute bases for the protection of the rights of individuals with special care needs. Reports of education councils and committees indicate, however, that the services offered are not systematic or sufficient. In fact, while overregulation appears in some areas, there exist no provisions in some others such as the elimination of discrimination, meeting the needs of families having handicapped members, family and informal education and supervision.

323. The number of children who need special care and training is not exactly known, but estimates based on world rates exist. While the distribution of schools over the country is not balanced, the rate of boarding schools is high. Most of the disabled children in Turkey are trained in boarding schools. This training system isolates disabled children from the society and hinders them from developing communicative and social skills.

324. With respect to children who are in need of special care and training, the current regulations are insufficient in terms of early recognition and educational diagnosis, prevention, placement, educational environment, educational methods, personnel, technology.

325. Article 39 of Law No. 3308 on Apprenticeship and Vocational Training introduces provisions on holding vocational courses which are necessary in business life and which take into consideration the fields of interest, the needs and abilities of the individual with special needs. Various courses are held according to this law and vocational counselling is given in schools.

326. Some material aid is provided to children of State employees or workers in the "Bağ-Kur" (Pension Fund for the Self-Employed) who need special training. Workers who are not a part of these two social security systems cannot benefit from these rights.

327. Children who are in need of special care and training are provided with care and training at specialized centres under the Ministry of National Education and the General Directorate of the Social Services and Child Protection Agency. They are medically treated at centres affiliated with the Ministry of Health.

328. Special training schools and institutions are spread over Turkey at the following rates: 24 per cent in the Middle Anatolian Region, 22 per cent in the Marmara Region, 16 per cent in the Black Sea Region, 14 per cent in the Aegean Region, 9 per cent in the East Anatolian Region, 8 per cent in the Mediterranean Region and 5 per cent in the South-East Anatolian Region.

329. Besides State institutions and foundations, real and legal entities can also establish special schools or classes for the training of children who are in need of special care and training, according to the principles of Law No. 625 on Special Training Institutions.

(a) Education of visually disabled children

330. For the totally blind or low vision individuals, there are 11 special primary schools and five special education classes. Such individuals may also attend inclusive schools. The number of children with visual impairment attending all kinds of educational institutions is 1,427.

331. The Ministry of National Education organizes literacy and vocational courses for those who cannot attend formal educational institutions. All kinds of printed publications and educational materials are produced in the Braille Printing House and Evening Art School, established for the visually impaired. In addition to this, secondary school textbooks have been recorded on audiotapes, duplicated and delivered to the visually impaired students. Educational materials required by the visually impaired students in mathematics and social science courses are produced and delivered by the Production Centre for Educational Materials.

(b) Education of audially disabled children

332. For students who are deaf or who have hearing problems, there are 47 special primary education schools and 61 special education classes. The number of students with hearing impairment attending both special and inclusive education is 7,630.

333. For the adults with hearing impairment, literacy and vocational courses are organized by the Ministry of National Education. A sign-language guidebook, aimed at eliminating the local differences in the use of sign language, has been prepared.

334. In order to improve the quality of existing inclusive practices, high schools with Mullet programmes for the hearing impaired have been established in eight provinces. The students attending these schools take the cultural courses in their schools and vocational courses in the Vocational High Schools in the neighbourhood. Courses concerning the use of wireless hearing aids are organized for teachers.

335. A study is being carried out for the purpose of evaluating the effectiveness of the natural-oral-audio method.

(c) Education of mentally disabled children

336. For the moderately and severely mentally handicapped students, there are 7 special primary education schools, 40 Vocational Education Centres, 55 Education and Practice Schools and 3 Independent Occupational Training Centres. In addition to these, there are 630 special educational classes. The mentally handicapped students also attend inclusive schools. The total number of students with mental handicaps attending these institutions is 20,000.

337. Adults with mental handicaps, regardless of whether or not they received formal education, may attend occupational training centres.

(d) Education of physically disabled children

338. There are 600 children with orthopaedic handicaps attending four special primary education schools, four vocational high schools and inclusive schools. Studies concerning the architectural modifications are in progress for the purpose of facilitating access to the school buildings and public facilities for the orthopaedically handicapped.

(e) Education of chronically ill and hospitalized children

339. For children who need special education because of a chronic illness, 26 primary schools have been established within hospitals.

(f) Education of children with speech difficulties

340. Children with language and speech difficulties attend inclusive schools after the necessary measures are taken for their special education. The ones who cannot attend regular

schools are provided therapeutic and supportive educational services in the guidance and research centres. The number of students with language and speech difficulties attending inclusive schools is 8,300.

(g) Education of children with adaptation problems

341. Research is being carried out to provide educational services to children who have difficulty in forming and maintaining healthy social relations and who experience adjustment problems for various reasons.

(h) Family education

342. Family education, an inseparable part of the special education services, is pursued through school guidance facilities, as well as guidance and counselling centres, despite the absence of legal arrangements governing these activities.

(i) Guidance

343. There are 96 guidance and research centres in 80 provinces in Turkey where 540 guidance teachers work.

344. Making the decision on the location, selection and diagnosis of children needing special education, determining the facilities to which they will be sent, managing special therapeutic activities to improve the situation of children failing to adapt themselves to their environments for spiritual, sentimental and social reasons, planning guidance support at the primary and secondary education institutions and examining cases reported by the schools are among the duties of the guidance and research centres under Law No. 2916 on Children Needing Special Education.

345. Several activities are performed for the handicapped by the Ministry of Health and a department was established on 17 May 1997 within the General Directorate of Therapeutic Services for the coordination of work oriented to the handicapped and the provision of health services of higher calibre. Activities intended for the handicapped may be divided into preventive, rehabilitative and therapeutic. Some of these activities are listed below:

- An emergency aid and resuscitation services organization is being established to reduce deaths and disablement resulting from accidents to a minimum level;

- Training of midwives and nurses is in progress within the scope of a project on support of psychosocial development of children, designed to avoid mental disorders. The target groups of this project are the children in the 0-6 age group and expectant mothers;

- There is an ongoing pilot activity for premarital education and for genetic counselling by family medicine specialists, with a view to avoiding genetic disablement;

- The mother and child care and family planning centres have initiated a massive country-wide information campaign within the context of popular education schemes to explain the dangers and risks of excessive births from the viewpoint of the health of the mother and child and the nutrition of expectant mothers and infants. These programmes reached 32,162,802 persons in 1996;

- In addition to the services provided by the hospitals and rehabilitation centres working under the Ministry of Health, the General Directorate for the Social Services and Child Protection Agency sorts the handicapped by the nature of their handicap and ages and offers rehabilitation support at residential and daytime care and rehabilitation facilities located in many parts of Turkey.

(j) Vocational rehabilitation and employment services

346. The Constitution, Law No. 573, the Decree which is equivalent to the Rule on Private Education, Law No. 3308 on Apprenticeship and Vocational Training, Labour Law No. 1475, the Regulations on the Employment of the Handicapped and Law No. 2828 on the Social Services and Child Protection Agency contain a number of clauses about the rehabilitation and employment of handicapped persons.

347. The Constitution indicates that the State will protect handicapped persons, both in their social and vocational activities.

348. Several other laws foresee the employment of handicapped persons commensurably with the resources at hand.

349. The regulation issued under Labour Law No. 1475 indicates that the functions of employment consultancy, vocational orientation and rehabilitation may be performed by the Labour and Employment Administration. Fines given to employers who disregard this decision, are accumulated in a fund at the Employment Agency and are used for the professional rehabilitation of disabled children.

350. It is suggested that the vocational rehabilitation services provided by several ministries should be consolidated to enable them to perform better the tasks of evaluating the situation of the handicapped and to provide an efficient consultancy service to those needing it.

351. Amendments have been made in the relevant laws to enable the State to furnish the handicapped children who are not covered by the Public Servants Law and the Labour Law with hearing aids and other devices.

4. Legal basis of health services (art. 24)

352. Article 56 of the Constitution states the following:

"Everyone has the right to live in a healthy, balanced environment.

"It is the duty of the State and citizens to improve the natural environment, and to prevent environmental pollution.

"To ensure that everyone leads their lives in conditions of physical and mental health and to secure cooperation in terms of human and material resources through economy and increased productivity, the State shall regulate central planning and functioning of the health services."

353. Article 41 (2) of the Constitution says that "The State shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially the protection of the mother and children, and for family planning education and application."

354. According to article 3, paragraph (j), of the Law on Essential Health Services, "Training the citizens on protection from diseases, healthy environment, nutrition, mother-child health and family planning and others is performed with the cooperation of professional institutions accepted as state institutions and private and voluntary institutions."

355. According to article 13 of the above-mentioned Law, the main duties of the General Directorate of Mother-Child Health and Family Planning are as follows:

(a) To determine the aims of the Mother-Child Health and Family Planning services, to prepare plans and programmes of action according to these aims and to execute these plans;

(b) To provide service in protecting the physical and psychological health of the mother and of the child.

356. The Subregulation No. 154, prepared in accordance with the Regulation on Providing Health Services in Regions, covers the subjects of mother and child care and family planning. The relevant provisions of this subregulation are as follows:

"Necessary information is to be given to pregnant women, women who gave birth and breast feeding women about child-care and the protection of their own health."

"Measures are taken to provide the most suitable means for pregnant women to deliver their children."

"Mothers and children are monitored and examined after birth."

"Necessary measures are taken, in order to ensure healthy physical and psychological development of children."

"Pregnant women enjoy healthcare for prenatal and postnatal periods. Follow-up controls ensure that the new born grows up, physically and psychologically healthy."

357. The Law on the General Protection of Health, article 1, states that "To improve the health conditions in the country, to fight diseases and all other harmful factors endangering the health of the society, to ensure a healthy next generation and to provide medical and social assistance to

citizens constitute the general State services." Article 3 states that "The Ministry of Health directly performs services like protecting the health of mothers after birth, taking measures to protect the health of children and young people and providing all other services related to the protection of the children." Article 151 states that "The Ministry of Health establishes and directs institutions necessary for the protection of children and for decreasing the death rate of children and takes measures to help people learn the benefits of protecting the health of children."

358. The Turkish legislation on health services complies with the requirements of the CRC.

359. It is stressed in article 56 of the Constitution that everybody has the right to live in a healthy and balanced environment. In 1984, the activities for extending health services covered all cities. In the Fifth Five-Year Development Plan, it is accepted as a basic principle that service has to be provided to everybody in an equal, continuous and effective way in order to improve the general health level. State expenditures related to health constitute about 3.75 per cent of the GNP.

360. The rate of pregnant women who undergo medical examination before birth has been increasing. The rate of those who use effective birth control methods is lower in the eastern and northern Anatolian regions than those in the western regions. It has been determined that there is a strong correlation between the educational level of the women and the use of health institutions or birth control methods.

361. Within the currently applied health system, mother and child care services are available to all pregnant women. It has been established that only 63 per cent of pregnant women receive pregnancy health care.

362. The death rate of babies was 81.5 per 1,000 between 1983-1988, but decreased to 52.6 per 1,000 in 1993. The great majority of the deaths of babies take place in their first year. The death rate of children below the age of five in Turkey is 60.9 per 1,000.

(a) Implementation of health services

363. The expanded immunization programme initiated in 1985 in Turkey was integrated with the health centres, health houses, mother and child care centres and family planning units, in close cooperation with the first-echelon health institutions. The neonatal tetanus eradication programme was launched in mid-1994, followed by the polio eradication programme in 1995 in which 85 per cent of the target population was reached.

364. The programme for the control of diarrhoea was put into action in 1986. Oral rehydration therapy is applied in this programme in order to prevent deaths resulting from dehydration. The rate of the use of this treatment was 44 per cent in 1988 and 57 per cent in 1993. The oral rehydration salt packages are purchased from the manufacturers by the Ministry of Health and distributed free of charge to patients.

365. Free distribution of medicines to abate acute respiratory tract infections and pneumonia is in full swing at all health institutions under the control of the Ministry of Health.

366. Programmes exist for the promotion of breastfeeding and expansion of baby-friendly hospitals along the principles set forth in the joint WHO/UNICEF declaration entitled "Ten Steps in Successful Breastfeeding". In an effort to support this activity, a protocol was signed with the baby food manufacturers for prohibiting the free or low-price distribution of baby food in maternity wards so that breastfeeding is not inhibited by such easy-to-reach methods.

367. To prevent iodine-deficiency diseases, iodized salt has been produced in Turkey since 1953. A programme was launched in 1995 to promote its wider use. The salt manufacturers have signed an agreement with the Ministry of Health and undertook to start manufacturing solely iodized salt by the year 2000.

368. Phenylkentonuria screening was started in 1987 in cooperation with the Children's Hospital of the Faculty of Medicine at the Hacettepe University with the screening of neonates in 22 provinces. Four hundred and eighty thousand nine hundred and eight neonates were screened for phenylketonuria in 1996.

369. The safe motherhood and child care programme aims at the identification and follow-up of all pregnancies, the identification of risky pregnancies in order to take the appropriate measures, the education of pregnant mothers on nutrition and immunization, the support of anaemic cases with iron foliate preparations, the transfer of pregnant mothers to health care institutions with sterile conditions, the education of mothers and family members about prenatal care and the early diagnosis and treatment of post-labour complications (such as sepsis, mastitis, anaemia, etc.) and about family planning methods. The mothers are also educated on the importance and value of breastfeeding during the first four to six months after the birth of the child.

370. With a view to preventing hereditary handicaps, a programme on family health was started in five pilot regions for informing future parents of the risk factors and for providing genetic consultancy services. The mother and child care and family planning centres integrated into public health programmes, which include maternal and infantile health and family planning, encompass additional topics such as the disadvantages of excessive births on the health of the mother and the child and the nutrition of pregnant women and the newborn.

371. For abating genetic blood diseases, the Ministry of Health conducts a thalassaemia eradication programme under Law No. 3960 in the cities of Antalya, Içel, Muğla and Hatay where this disease is prevalent. Thalassaemia diagnosis and treatment centres have been established in these areas.

372. A massive training effort has been initiated to prevent disorders due to the use of narcotic drugs by the youth, mothers and other groups.

5. Social security (art. 26)

373. Article 60 of the Constitution confirms that "Everyone has the right to social security. The State shall take the necessary measures and establish the organization for the provision of social security."

374. ILO Convention No. 102 on the Minimum Standards of Social Security, ratified by Turkey by Law No. 1451 dated 29 July 1971, requires the States parties to implement at least four of the social security systems; these are occupational accidents, occupational diseases, maternity, disablement, old-age and death insurance.

375. According to articles 1 and 2 of Law No. 5434 dated 8 June 1949 on Old-Age Retirement Insurance, the State is in charge of providing coverage to public servants, retirees, the disabled and orphans through an adequate monthly pay and health services.

376. Articles 1 and 2 of Law No. 506 of 17 July 1964 obliges the Social Insurance Administration to provide coverage for occupational accidents and diseases, maternity, disablement, old-age and death insurance to all persons employed under a labour contract by one or several employers.

377. The Organization for Social Insurance of Independent Workers or the Self-Employed enables anyone to be insured regardless of whether he/she is employed or not.

378. Under article 20 of the Law on Social Insurance Administration, the banks, insurance and reinsurance companies, chambers of commerce and industry, commodity exchange markets and retirement funds are entitled to operate like the Social Insurance Administration provided that they offer the same benefits to their members. The charters of these funds are subject to approval by the Ministry of Labour and Social Security.

379. Insurance coverage of even one of the parents permits the children to be entitled to the same coverage.

380. The Turkish social security system has not yet achieved its basic goal of bringing all individuals under a social security umbrella against social security risks; thus, around 20 per cent of the population still does not have such coverage.

381. According to article 60 (g) of the Social Insurance Law, the period of insurance coverage to be taken into account for old-age or retirement insurance will begin at the eighteenth year of age irrespective of whether insurance premiums are paid in connection with employment.

6. Child care services and facilities (art. 18, para. 3)

382. The Republic of Turkey is a social State. The "social State" concept imposes a number of obligations upon the State with regard to care and training of children during the pre-school period. Article 41 of the Constitution says that the family is the basis of the Turkish society and that the State will adopt appropriate measures to spread the practice of family planning to protect the child and the mother and to establish the institutions necessary for this.

383. Industrialization in Turkey entailed an influx from villages to cities and a transition from extended to nuclear family structure and increased the demand for pre-school training. After the 1960s, nurseries and kindergartens were set up by a number of laws and regulations.

384. There are various institutions offering training and care services for children in the age group 0-6 years. Baby care centres and kindergartens of the General Directorate of the Social Services and Child Protection Agency, as well as those established by persons and corporate entities and universities, Children's Homes of the Ministry of National Education, maternal classes established in primary schools, practice classes at secondary schools and kindergartens established by State institutions and foundations.

385. Public baby care centres and kindergartens, providing care and education for the age group 0-6 years, under the General Directorate of the Social Services and Child Protection Agency, provide services according to the "Regulation on Baby Care Centres and Kindergartens" dated 1983. The establishment, operation and inspection of institutions providing services for children 0-12 years of age by persons or corporate entities according to the "Regulation on the Establishment and Operation Principles of Private Baby Care Center and Kindergartens" and the "Regulation on the Establishment and Operation Principles of Private Children's Clubs", based on Law No. 2828, are under the responsibility of the General Directorate of the Social Services and Child Protection Agency. There are 23 public kindergartens with a capacity of 2,533 children and 1.070 private kindergartens with a capacity of 46,848 children.

386. Although the General Directorate for Pre-School Education was founded by Law No. 3797 under the auspices of the Ministry of National Education, pre-school education services are provided by different directorates of the Ministry. Private kindergartens are bound to the General Directorate of Private Education.

387. Public bodies and agencies also establish such facilities for the children of their employees under the Regulation of Child Nurseries adopted in 1987. In addition to this, public servants are entitled under article 108 of the Public Servants Law No. 657 to six weeks of paid and, upon their request, up to one year of unpaid leave after giving birth.

388. Baby care centres and kindergartens can also be established in the framework of the "Regulation on Working Conditions of Pregnant and Breast-feeding Women and Breast-feeding Rooms and Baby Care Dormitories", which was prepared in accordance with Labour Law No. 1475. It is an obligation for enterprises where more than 150 women are employed to establish a separate baby care centre, near or within the workplace, to look after the children (between the ages of 0-6 years) of their employees and to help mothers breastfeed their babies. According to the same Labour Law, women have the right to eight weeks of paid leave after giving birth, and breastfeeding hours, if they choose to work during this period.

389. Similarly, the local administrations are also charged with a number of obligations by Laws Nos. 1580 and 1593.

390. It is necessary to create cooperation and standardization of curricula, tools, tutors and qualifications of other personnel among pre-school education institutions established by the Ministry of National Education, the General Directorate of the Social Services and Child Protection Agency and other State institutions and foundations.

391. Children's clubs, where children can stay safely when they are not in school and to meet their social requirements, are established only by private persons or institutions. Besides these institutions, pre-school and out-of-school care is also given by baby-minders at home. However, in Turkish families which still display some of the features of extended families, a great majority of children of working parents are cared for by their relatives voluntarily without any payment.

G. Education, leisure and cultural activities (art. 28)

1. The Turkish national education system

(a) Principles and aims of education (art. 29)

392. Turkey places utmost importance on the development of human resources. Therefore, education is one of the highest priorities of Turkey.

393. According to the Turkish Constitution (art. 42):

> "No one shall be deprived of the right of learning and education.
>
> "The scope of the right to education shall be defined and regulated by law.
>
> "Training and education shall be conducted along the lines of the principles and reforms of Atatürk, on the basis of contemporary science and educational methods, under the supervision and control of the State. Institutions of training and education contravening these provisions shall not be established.
>
> "The freedom of training and education does not relieve the individual from loyalty to the Constitution.
>
> "Primary education is compulsory for all citizens of both sexes and is free of charge in State schools.
>
> "The principles governing the functioning of private primary and secondary schools shall be regulated by law in keeping with the standards set for State schools.
>
> "No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education. Foreign languages to be taught in institutions of training and education and the rules to be followed by schools conducting training and education in a foreign language shall be determined by law. The provisions of international treaties are reserved."

Thus, the Constitution has secured the right to education and training without any discrimination and with attributing utmost importance to the best interests of the child.

394. The right to education that is secured by the Constitution has acquired the necessary definition and scope with the Basic National Education Law No. 1739. According to the Basic National Education Law No. 1739:

"The general aim of the Turkish National Education System is:

"1. To educate individuals of the Turkish nation as citizens who understand and who are devoted to the principles and reforms of Atatürk, who believe in, protect and develop national, spiritual, humanistic and cultural values of the Turkish nation; who are conscious of their duties to the Turkish Republic which is a democratic, secular and social State governed by the rule of law.

"2. To educate every individual of the Turkish nation as constructive, creative and efficient persons having strong personality and character, ability of free and scientific thought and respect for human rights.

"3. To prepare them for life by developing their talents and skills.

"The aim is to increase the welfare and happiness of Turkish citizens and the Turkish society as a whole and to support and accelerate the economic, social and cultural development in national unity and integrity and finally to make the Turkish nation a distinguished partner of the contemporary civilization."

395. A significant increase is observed in the number of schools, students, teachers and lecturers in Turkey. As of the 1998/99 academic year, the indicators regarding this matter are given in table 1.

Table 1. Numbers of schools, students and teachers by stage of education (academic year 1998/99)

Stage of education	Number of schools	Number of students	Number of teachers
Pre-school	7 976	207 319	11 825
Basic education	44 525	9 512 044	316 991
Secondary education	5 708	2 013 152	139 664
General high school	2 611	1 094 616	70 936
Vocational and technical high school	3 097	918 542	68 728
Total	63 917	13 745 673	608 144
Extended education	6 208	2 935 929	44 042
Grand total	70 125	16 681 602	652 186

396. All Turkish Governments have considered education as one of the basic factors of development and have always allocated large resources for providing the highest quality in education. In this connection, significant developments have been achieved in the field of education.

397. The application of Law No. 430 on the Unification of Education contains the provisions of the Lausanne Treaty on the education activities of minorities (Armenians, Greeks and Jews according to the Lausanne Peace Treaty). Minorities have their education and training in their own languages and cultures.

398. Law No. 625 on Private Education Institutions contains provisions regarding the supervision and control of the education, training and administration of the pre-school, primary and secondary education institutions that are established by Turkish real persons or legal entities.

399. The types and numbers of students and teachers of the schools under the scope of Law on Private Education Institutions are given in tables 2, 3, 4 and 5.

Table 2. Numbers of schools, students and teachers in private education (academic year 1998/99)

Type of school	Number of institutions	Number of students	Number of teachers
Private Turkish schools	1 583	224 122	19 793
Private minority schools	84	4 614	398
Private foreign schools	30	8 477	688
Private international schools	4	866	121
Total	1 701	238 079	21 000

Source: Ministry of National Education (1998).

Table 3. Numbers of institutions, students and teachers in private education/training institutions (academic year 1998/99)

Stage of education	Number of institutions	Number of students	Number of teachers
Pre-school	587	15 176	1 224
Basic education	651	164 181	9 547
High school total	466	58 722	10 229
General high school	441	56 219	9 970
Vocational and technical high school	25	2 503	259
Private classrooms	1 759	441 348	15 575
Private courses	2 628	1 081 521	17 597*

Source: Ministry of National Education (1998).

* Specialist/master workmen teachers are included.

Table 4. Numbers of schools, students and teachers in private minority schools (academic year 1998/99)

Stage of education	Number of schools	Number of students	Number of teachers
Pre-school	36	542	28
Basic education	35	3 118	206
General high school	12	938	160
Vocational and technical high school	1	16	4
High school total	13	954	164
Grand total	84	4 614	398

Source: Ministry of National Education (1998).

Table 5. Numbers of schools, students and teachers in private foreign schools (academic year 1998/99)

Stage of education	Number of schools	Number of students	Number of teachers
Pre-school	3	108	8
Basic education	13	3 997	111
General high school	14	4 351	561
Vocational and technical high school	1	21	8
High school total	15	4 372	569
Grand total	31	8 477	688

Source: Ministry of National Education (1998).

400. In the annex paragraph of article 2 of the Law on Private Education Institutions, it is stipulated that the private education institutions shall improve their quality of education in line with the Turkish National Education objectives and principles. In article 3 of the same law, the establishment of these institutions in regions of priority for development is motivated.

401. Law No. 2841 covers citizens who have completed the compulsory basic education or who are illiterate and the public and private education institutions and establishments. According to this law, the Ministry of National Education is the "central and supervisory institution" for the implementation and coordination of education activities. This central role of the Ministry is shared by the establishments and institutions in the provinces in accordance with the modern approach to administration.

402. The public institutions are obliged to provide reading and writing courses for their illiterate employees.

403. The Regulation No. 2201 on Guidance Services of the Ministry of National Education aims to arrange the principles regarding the establishment and functioning of guidance and research centres and the offices of student guidance services. The guidance teachers are required to have experience in pedagogy for helping with the adaptation problems of students and the grading of their vocational talents, skills and intelligence levels.

(b) Public education institutions

404. Public education covers all of the schools from pre-school education to higher education. The Turkish education system has four stages: pre-school education; basic education; secondary education; higher education.

(i) Pre-school education

405. The education which is conducted from the birth of the child until the end of his fifth year of age (sixtieth month) is considered as pre-school education. According to the Basic Law on National Education, the aims of pre-school education are as follows:

- To provide the physical, mental and spiritual development of the child and to help the child to acquire good habits;
- To prepare the child for basic education;
- To provide a common education opportunity for children who come from families and environments with unsuitable conditions;
- To make the children speak the Turkish language correctly and eloquently.

406. Pre-school public education is given in nursery classes, nursery schools, practical nursery schools and private Turkish, foreign and minority nursery schools.

407. The Regulation on Pre-school Education Institutions covers public and private nursery schools, nursery classes and practical classes that are affiliated with the Ministry of National Education. The aim of the Regulation is to arrange the principles regarding the administration of and the education provided by specified institutions. When its aims and scope are taken into consideration, this Regulation is in compliance with the principles of the best interest of the child, the right of the child to life, to continue his/her life and to develop, and respecting the ideas of the child contained in the CRC.

408. Attending pre-school education, which is an important stage of public education, is not compulsory according to the Turkish National Education System.

Table 6. Numbers of classes, students and teachers in pre-school education (academic year 1998/99)

Pre-school education institutions	Number of classes	Number of students	Number of teachers
Independent nursery schools	189	17 683	1 134
Nursery classes (under the aegis of primary schools and the Lycee)	6 795	165 663	8 536
Practical nursery classes (under the aegis of Technical Education Schools for Girls)	364	8 610	905
Nursery classes (under the aegis of private schools)	41	187	26
Private nursery schools	219	6 173	591
Private nursery classes	368	9 003	6 333
Nursery schools total	408	23 856	1 725
Nursery classes total	7 568	183 463	10 100

Source: Ministry of National Education (1998) (p. 10).

(ii) Basic education institutions

409. Basic education covers the education period of children 6-14 years of age. This period, which was considered to start at the age of 7, has been lowered to the age of 6 as a result of the decisions taken by the National Education Council in 1982 to make the education system more efficient.

410. Basic education used to be divided into the first five years, which was considered as primary school and was compulsory, and the second three years, which was considered as secondary school. However, in 1997, as envisaged in Turkey's Seventh Five-Year Development Plan, compulsory education was increased from five years to eight years by Law No. 4306.

411. Primary education is multipurpose education. Its task is to apply academic curricula for both adults and children. Adults who do not know how to read and write and who were unable to complete their basic education can benefit from these programmes. According to the Law on Basic Education and Training, primary education is the basic education and training which contributes to the physical, mental and moral development and education of all Turkish citizens in accordance with the national aims. Primary education is given in basic education institutions. It is free of charge in public schools. The period of compulsory basic education covers the children in the age group 6-14 years.

412. The Regulation on Primary Education Institutions of the Ministry of National Education sets out the principles regarding the establishment, tasks and functioning of day-time and boarding public and private basic education institutions (primary schools and secondary schools) affiliated to the Ministry of National Education and contains the principles regarding passing classes, exams and attendance at education institutions. The Regulation is in accordance with the spirit of the National Basic Education Law No. 1739.

Table 7. Numbers of schools, students and teachers in primary education (academic year 1998/99)

Primary schools by type	Number of schools	Number of students	Number of teachers
Primary schools	44 525	9 512 044	3 126 991
Regional primary boarding schools	171	84 698	3 387
Total	44 696	9 596 742	3 130 378

413. The "Modernization of Education 2000" project has been in force together with Law No. 4306. The following will be accomplished by the 2000/01 academic year through this project:

- Classes will shrink to 30 students by the year 2000;
- Quality in education will be more effectively provided to the students living in rural areas with an unsuitable climate and insufficient transport networks or security problems, through central schools which will also supply them with lunch;
- Education will be provided in regional boarding basic education institutions or basic education institutions with lodging for children in rural areas where climate and transportation facilities are not suitable or safe and all their expenses will be met;
- Poor students will be provided with uniforms, bags, textbooks and notebooks, as needed;
- Computer labs will be set up at basic education institutions and students will be taught computer classes, besides working on other subjects with a computer-supported education approach in these labs;
- Children will be taught at least one foreign language;
- Schools will be equipped with more modern equipment;
- A "learning society" will be created by enabling the individuals to learn and to conduct research on the ways of learning with a rational and scientific approach;
- The necessary infrastructure will be created to ensure the physical development of children in addition to their intellectual abilities.

414. In order to reach the goals mentioned above:

- The construction of 12,103 classrooms in 1997 and 21,620 classrooms in 1998 was completed;
- By the end of 1998, 38,900 more students were provided boarding school education through the introduction of 61 regional boarding primary education schools and 26 primary schools with lodging;
- 521,784 students are provided with free transportation facilities and lunch, and their stationery and school wear expenses are met by the State budget;
- The quality of education will be enhanced through the "Basic Education Programme" created in line with the loan agreement with the World Bank;
- Foreign language learning is compulsory for students from grades 4 to 8; a second foreign language is optional for these students;
- Textbooks and curricula have been geared to student-centred education;
- In the 1997/98 academic year, the enrolment of female students in basic education institutions in rural areas increased by 39 per cent. To ensure the schooling of all female students, the number of regional boarding primary schools for girls, of which there had been only one, was increased to nine.

(iii) Secondary education institutions

415. Secondary education institutions give general, vocational and technical education for a minimum of three years following eight years of basic education. The aim of secondary education is to give a common general culture to the students and to prepare them for higher education and business in line with their talents and skills.

Table 8. Participation in secondary education, academic years, 1994/95-1998/99

	1994/95		1998/99	
	Number of students	Rate of schooling	Number of students	Rate of schooling
Secondary education total	2 263 396	48.2%	2 013 152	54.7%
General high schools	1 313 892	27.2%	1 094 610	30.8%
Vocational and technical schools	949 504	21.0%	918 542	23.9%

Source: State Planning Organization, "Seventh Five-Year Development Plan", 1998, p. 24.

416. The Seventh Five-Year Development Plan aims at raising the rates in table 8 to a total of 75 per cent in 2001. In this total, it was foreseen that the rate of general high schools shall reach 40.5 per cent and the rate of vocational and technical schools shall reach 34.5 per cent. In case of the realization of the targets, the rates between general high schools and the vocational and technical schools will be quite close.

(iv) Higher education institutions

417. Education institutions which give higher education for a minimum of two years following basic education are called higher education institutions. Universities are established for giving undergraduate, graduate and postgraduate education. The aim of higher education is to bring up persons with human interests, in a way to develop their talents and skills to the best of their abilities.

418. Law No. 2547 on Higher Education covers institutions of higher education, high schools, their affiliated units and activities and principles regarding these institutions. The aim of this law is to determine the goals and principles regarding higher education, to set out the principles regarding education, training, research, publishing, lecturers, students and other personnel and the organization, functioning, tasks, authorities and liabilities of all the high schools and higher education institutions.

419. In Turkey, the rate of contribution of the universities to national research development is 69 per cent, beyond the average figure of 50 per cent.

(c) Informal education

420. Informal education constitutes an independent part in the Basic Law on National Education. Informal and vocational education in Turkey equip the unqualified young who are left outside school with vocational education in a manner that shall fulfil the challenges of the twenty-first century.

421. The office responsible for informal education in Turkey in the first instance is the General Directorate of Apprenticeship and Informal Education of the Ministry of National Education, which provides informal education services in Turkey through the affiliated institutions and centres listed below:

- Practical Arts Schools for Girls;
- Maturation Institutions (which are higher-level continuations of vocational technical institutions);
- Industrial Practical Arts Schools;
- Vocational Education Centres;
- Technical Education Centres for Adults;

- Public Education Centres;
- Apprenticeship Education Centres;
- Private Courses;
- Private Classrooms;
- Applied Education Institutions (Special Education);
- Vocational Schools (Special Education);
- Vocational Education Centres (Special Education).

422. Forms of special education in Turkey are in compliance with article 28, paragraph 3, of the CRC with a view to achieving the right of education for every child.

423. Informal vocational education in Turkey has three important aims:

1. To prevent youngsters who are of school age and stay out of school part-time or full-time from being left to their own destiny as unqualified workers.
2. To teach them to implement new technologies, to make a career and to achieve lifetime development and progress.
3. To provide knowledge and skills for housewives.

(d) Private education institutions and minority schools

424. Private education institutions have been provided a legal ground by Law No. 625 with its annexes and modification which have been put into force in accordance with article 42 of the Constitution, as well as regulations and directives which have been put into force in relation to this. Private education institutions, providing the service of education under the control and supervision of the State, continue their activities as: private Turkish schools; private minority schools; private foreign schools; private international schools.

425. Private minority schools are private schools opened by minority groups (Greeks, Armenians and Jews, according to the Lausanne Peace Treaty) in Turkey. Many nursery schools, primary schools, secondary schools and high schools which have been established by Greeks, Armenians and Jews continue to provide education.

426. Article 40 of Law No. 625 states that "They [minorities] shall have equal rights in the establishment, administration and supervision of all kinds of charity establishments, religious and social institutions, all types of schools and similar education and training institutions provided that the expenses are covered by them and they will be free to use their own languages and execute their religious ceremonies." Article 41 of the same law says that "In general [public] education, appropriate circumstances shall be provided by the Turkish Government for

the provision of education for the children of these Turkish citizens in their primary schools and in their mother languages in the provinces where non-Muslim citizens reside. This provision shall not obstruct the compulsory teaching of the Turkish language in the concerned schools by the Turkish Government."

(e) Environmental education

427. According to article 56 of the Turkish Constitution, "Everyone has the right to live in a healthy and balanced environment. It is the duty of the State and citizens to improve the natural environment and to prevent environmental pollution."

428. In order to develop the sensitivity of the citizens towards environmental problems and to provide for their active participation in the solution of these problems, a protocol was signed between the Ministry of National Education and the Ministry of Environment on 16 November 1993.

2. Leisure and social activities (art. 31)

429. The institutions of the State entrusted with leisure and social activities are as follows:

- The General Directorate of Youth and Sports;
- The General Directorate of the Social Services and Child Protection Agency;
- The Ministry of National Education;
- The Ministry of Culture.

430. According to article 58 of the Turkish Constitution, "The State shall take necessary measures to protect youth from addiction to alcohol, drug addiction, crime, gambling and similar vices, and ignorance."

431. The participation of the child in leisure activities is an important factor which supports public education in terms of building self-confidence and integrity.

432. The General Directorate of Youth and Sports is entrusted with the task of providing physical training, gymnastics and sports activities and taking the necessary measures for the protection of youth from bad habits. The activities organized by the General Directorate of Youth and Sports are as follows:

- Youth centres: 79 youth centres have been opened for the purpose of providing social, cultural and sports activities. The number of the members of these centres is approximately 70,000;
- Youth camps: the aim in these camps is to assist the young to relax and to take part in activities other than studying and working, as well as to help young people become creative, productive and socially healthy;

- Socio-cultural activities: music and dance contests are organized annually among universities, youth centres, associations, establishments and institutions;

- Youth festivals: youth festivals are organized annually in every province for the purpose of exhibiting the cultural and artistic activities of the youth. Many young people take part in these festivals;

- Guidance and consultancy services: young people face personal, economic and employment problems. Consultancy and guidance services are available at schools and social welfare centres to help them to cope better with these problems. Offices are established every year during entrance exams to universities to provide such services for the students;

- Youth Week: annually, the week of 15-21 May is celebrated as Youth Week by decision No. 83/6394 of the Council of Ministers. Various activities are organized all over the country within the framework of Youth Week.

These activities are conducted in a way that they cover disabled, working, delinquent, abused and neglected children in the 0-18 age group.

433. The General Directorate of the Social Services and Child Protection Agency provides boarding care service for approximately 20,000 children in the 0-18 age group and who are under the protection decision of the courts or who are disabled.

434. Law No. 2828 on the Social Services and Child Protection Agency stipulates the principles and procedures regarding the establishment of social services for families, children, the disabled, the elderly and other people who are in need of protection, care or aid. The institutions which are functioning in this field are as follows:

Children's homes: these are boarding social service institutions which are authorized and responsible for the physical, educational and psycho-social development of children 0-12 years of age and, when required, for girls older than 12 years of age as well;

Training institutions: these are boarding social service institutions which are authorized and responsible for the protection and care of children 13-18 who are in need of protection and for providing them with jobs and education;

Day-care centres: these are non-boarding social service institutions which require payment for the services rendered and which are established for the purpose of caring for children of the age group 0-6, protecting and developing their physical and psychological health and helping them acquire values and habits;

Care and rehabilitation centres: these are social service institutions which are established in order to solve the problems of those who cannot adapt to the requirements of a normal life due to their physical, mental and psychological disabilities and to help them acquire skills which will make them self-sufficient in the society or to provide continuous care for those who cannot acquire these skills;

Child and youth centres: these are day-time and boarding social service institutions which are established for giving temporary rehabilitation and reintegration services to street children who are potentially in social danger due to conflicts between parents, diseases, poverty, abandonment, negligence and bad habits;

Family advisory and rehabilitation centres: these are daily social service institutions which give services to disabled children and families for promoting harmony in families, preparing disabled children for school training and making disabled children self-sufficient.

The Ministry of National Education and the Concept of Leisure

435. The Basic Law on National Education considers leisure activities to be a part of "informal education". The purpose of leisure activities is defined in article 6 of this law as a means to provide the acquisition of the habit of spending leisure time in the best way.

436. Regulation No. 2410 on Training Studies of Primary and Secondary Schools, High Schools and Equivalent Schools entrusts the Ministry of National Education with the task of implementing and organizing ceremonies, meetings and social, cultural, sporting and other types of training studies at primary and secondary schools, high schools and equivalent public and private schools.

437. In principle, every student attends at least one training branch. Education and training activities of students during and after lessons are planned and provided in an integrative and complementary method.

3. Cultural activities

(a) Fine arts services

438. State galleries for fine arts provide facilities for public school students who are interested in fine arts.

439. The Child Choir of the State Opera was established on 11 November 1983 and has been affiliated with the General Directorate of Fine Arts of the Ministry of Culture by a protocol dated 15 November 1990. It has been continuing its activities since 1990 as the State Child Choir. The State Child Choir comprises 300 children and has trained approximately 1,500 children since its establishment. The Child Choir first performed a child opera in Turkey in 1988 and since then has taken part in many opera productions. It has performed in many television programmes and concerts, and has gone on tours abroad and in Turkey.

440. There are 44 State galleries for fine arts and 3 art museums which are affiliated to the Ministry of Culture. Courses on fine arts are organized for children in the age groups 16-18, 12-16 and 5-12 in the State galleries for fine arts.

441. Art contests are organized for children in the age group 5-16. Art studies by children are encouraged. Children who are successful in these contests are given awards. Talented children can enjoy special government grants to study abroad.

(b) Library services

442. The principles of public library services are in compliance with the CRC in terms of rendering services free of charge and without any discrimination.

443. According to article 9 of the Regulation on Public and Children's Libraries, "Children's departments of public libraries are established for the purpose of helping children who are younger than 16 to develop their knowledge with their own will." Children's libraries affiliated to public libraries, which reached the number of 1,343 in 1998, are established in different buildings. A corner is allocated for children's books in public libraries. The Regulation on Public and Children's Libraries foresees the screening of informative movies and children's programmes in the children's departments of public libraries and private children's libraries and the organization of tales, poetry and monologue hours and children's plays. The cultural activities to be organized in public and children's libraries are laid down in the Regulation regarding Education and Cultural Activities in Libraries.

444. Library services are provided by mobile libraries for children and adults who live in rural areas. As of the end of 1995, 73 mobile libraries were providing services all over the country.

445. Pre-school departments are included in some public libraries. These departments are furnished in line with the needs and interests of pre-school children. In addition to picture books, audio-visual materials such as television, video and toys which help their mental development (Legos, chess, cars, dolls, puppets, etc.) are included.

446. In order to provide more reading facilities for children, services are provided with permanent collections for youth camps, holiday villages, child departments of the hospitals and training institutions and children's homes in accordance with the protocol that has been signed with the General Directorate for the Social Services and Child Protection Agency.

447. Services are provided for children with visual disorders in the "speaking library" departments of the libraries.

(c) Monuments and museums

448. Children can visit museums with classmates or families free of charge in Turkey. Besides this, museum experts visit schools to give information on museums and ancient works and perform slide shows.

449. In recent years, new ways have been developed to attract the attention of children to ancient works and museums. Child departments have been opened in the Istanbul and Antalya Archaeological Museums. A department for children will be opened in the Ankara Anatolian Civilizations Museum.

(d) Movies

450. According to the Law on Movie, Video and Music Works and article 12 of the Regulation on the Supervision of Movie, Video and Music Works, the exhibition and performance of film, movie and music works for children younger than the age of 16 which will negatively affect their physical and mental health and development are prohibited. This has to be stated in posters, photographs and announcements related to the promotion of such films, videos, and music works.

(e) Research and development of public libraries

451. In accordance with the Decree issued in the Official Gazette No. 20096:

- Children's games are collected and published;

  Video filming of children's games is realized;

- Tales are collected and published;

- Theatre festivals are organized for children to promote traditional puppet theatre characters such as "Karagöz and Hacivat" and puppet theatres, in general. This festival has been held every two years at the international level since 1993.

(f) State theatres, opera and ballet

452. The General Directorate of the State Opera and Ballet, established by Law No. 1309, is represented and administered by a general manager according to the public law provisions and is affiliated to the Ministry of Culture.

453. The first child ballet course under the aegis of the Ministry of Culture started functioning in 1971. One of the beneficial aspects of these courses is that they help talented children to prepare for the exams of State Conservatories.

454. Children's plays are performed every year by the State Theatres.

4. Cultural education

455. The aims of cultural education are specified in articles 2 and 25 of the relevant Decree. Provisions that are directly related to the development and education of children are not included in this Decree, however, references to children are made in the provisions concerning general activities such as the creation and extension of culture.

456. Competitions are organized and conferences are held among primary and high schools and their equivalents within the framework of cultural activities for the purpose of creating sensitivity for the protection of cultural assets. As a result of these activities, approximately 10,000 students have participated in the competitions and conferences.

457. Art, poetry and essay-writing competitions are organized among the students of primary and high schools and their equivalents all over the country.

H. Special protection measures

1. Children in situations of emergency

(a) Refugee and asylum-seeking children (art. 22)

458. On the issue of refugee children, the basic point which should be looked at is article 22 of the CRC which draws the framework of this subject.

459. As far as Turkey is concerned, the asylum-seeking child and the refugee child have the same rights which are granted to refugee applicants. According to the Constitution of the Turkish Republic:

> "All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations." (art. 10 (1))
>
> "Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable." (art. 12 (1))
>
> "The fundamental rights and freedoms of aliens may be restricted by law in a manner consistent with international law." (art. 16 (1))

460. After looking at these provisions, foreigners and refugees may be said to have the same fundamental rights and freedoms as Turkish citizens. Fundamental rights and freedoms of foreigners can be restricted only by law, just like those of Turkish citizens. However, the law which restricts the fundamental rights and freedoms of foreigners should also be in accordance with international law.

461. The 1951 Geneva Convention and the 1967 Protocol relating to the Status of Refugees have been approved by Turkey by Law No. 359 dated 29 August 1961 and the Decision No. 6/10266 dated 1 July 1968 of the Council of Ministers. The Convention and the Protocol arrange the legal status of refugees in general. Thus, the provision in article 22 that the Contracting States shall treat refugees in the same way as their citizens with respect to primary education has been integrated into Turkish law.

462. The 1951 Convention has an optional territorial application clause. Turkey, in the light of this option, became a party to this Convention with a declaration of geographic preference. Nevertheless, this limited recognition does not hinder Turkey in extending its hand of help to people from all over the world who are seeking temporary asylum or shelter.

463. Despite the fact that Turkey is a party to the Convention with a geographic preference, asylum-seekers from Turkey's eastern borders are being admitted on humanitarian grounds and

solutions to their problems are being sought in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR). A regulation was issued by the Turkish authorities in 1994 in order to facilitate this procedure.

464. This regulation sets out the measures to be taken and the procedure to be implemented for asylum applications, and defines the rules the foreigners have to abide by in the case of possible mass influx and the arrival of foreigners in Turkey, either by legal or illegal means, as individuals or in groups wishing to seek asylum in Turkey or requesting residence permits in Turkey with the intention of seeking asylum in a third country. Article 27 of this regulation indicates that "within the general provisions possibilities of gainful employment and education, limited to their time of stay in Turkey, are accorded to refugees and asylum seekers".

465. Those who meet the conditions set out by the Settlement Law can settle in Turkey by informing the highest administrative official of their region in writing.

466. The Turkish Republic and, before that, the Ottoman Empire have had a long tradition of accepting refugees and provided ayslum for those who escaped persecution. There were also people who returned to Anatolia in large numbers as the geographical size of the Empire began to shrink, including the descendants of Turks who had settled in the Balkans, the Caucasus, the Crimea and other regions.

467. In April 1991, around half a million Iraqi nationals fleeing this country amassed at the Turkish-Iraqi border in the course of only a few days. Turkey, in the face of this tragedy, on solely humanitarian grounds, provided shelter and relief to these people with its limited resources. As it has repeatedly done in the course of its history, Turkey acted with compassion and did not hesitate to shoulder its moral responsibilities with courage. However, the magnitude of the problem was too great for any country to handle alone. For this reason, Turkey appealed to the international community for help. According to estimates, the cost of the relief extended by Turkey exceeded US$ 300 million.

468. More than 300,000 people of Turkish origin who ran away from forced assimilation in Bulgaria in 1989 have taken refuge in Turkey. Turkey has opened its doors to Bosnians who ran away from the war that broke out in the former Yugoslavia in 1992. In the beginning of June 1992, 28,000 Bosnian refugees came to Turkey. Approximately 4,500 of them have settled in Istanbul, 1,000 of them have been settled in various provinces and 2,500 of them have been settled in the camp in Kırklareli. All of the camps were closed in August 1994 due to voluntary returns and the rest of the refugees have gathered in the camp at Kırklareli. Children who resided in this camp continued their education in their mother tongues. Those who lived in Istanbul attended language courses at the Social Centre of Bosnian Refugees.

469. Most recently, Turkey has opened its doors to Kosovar refugees fleeing ethnic cleansing. The Turkish Government decided to temporarily accept 20,000 of the Kosovar refugees who fled to Macedonia. One third of these refugees are children. Turkey exerts efforts to make them feel at home and to make it possible for them to lead a normal life by providing them with education, health and social services which are necessary to the healthful development of these children.

470. Turkey, which was one of the first countries to sign the CRC, provides sufficient facilities for refugee children in terms of their rights and freedoms, within the framework of its international commitments.

(b) Children affected by armed conflicts (art. 38)

471. Article 15 of the Turkish Constitution states that, "In times of war, mobilization, martial law, or state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate from the guarantees embodied in the Constitution, provided that obligations under international law are not violated."

472. According to Law No. 3634 on the National Defence Service, in cases of general or partial mobilization and in preparation of mobilization under a state of emergency, children under the age of 15, people over the age of 65, those who are disabled and ill, pregnant women and women who have dependant children shall not be held liable (art. 1 (2)).

473. According to the Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War, which was approved by Turkey on 21 January 1953 by Law No. 6020, acts of murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical or scientific treatment of a protected person, as well as any other measure of brutality by soldiers or civilians are prohibited (art. 32). Taking hostages, collective punishment, individual or collective displacement and transfer of people who need to be protected to the countries of the invading forces are prohibited (arts. 33, 34, 49).

474. The Turkish Red Crescent has the duty of assisting children who are in danger zones and who are in need of protection in places determined by the Government.

475. Since 1984, Turkey has been combating the terrorist organization PKK. PKK is a vicious terrorist organization that disobeys the most fundamental of human rights, the right to life. Those who suffer most from the atrocities of the brutal terrorist organization PKK are the children. PKK is responsible for the deaths of over 30,000 people, including many children.

2. Children in conflict with the law

(a) The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

476. In article 17 (3) of the Constitution, it is stated that "No one shall be subjected to torture or ill-treatment; no one shall be subjected to penalties or treatment incompatible with human dignity." In article 243 of the Turkish Penal Code, it is stated that "Any Court or Committee President or member or other government officials who subjects suspects to torture in order to make them confess their crimes or subjects them to ill-treatment or treatment incompatible with human dignity shall be sentenced for up to five years to heavy imprisonment and prohibition of civil service for life or a temporary period." The penalty shall be increased if the action leads to the death of a suspect. According to article 238 (2) of the Penal Procedure Law, "Evidence shall be refused if it is not in compliance with the provisions of the law." According to article 135 (A)

of the Penal Procedure Law, the provisions that regulate "the prohibited questioning methods" set forth that "the use of physical and psychological treatment such as torture, ill-treatment or violence is prohibited and evidence obtained by means of these prohibited methods of questioning shall not be accepted". According to article 247 of the Penal Procedure Law, "A statement of a suspect before a judge can be taken as evidence." According to these provisions, statements obtained by means of torture, at police stations or at the offices of the prosecutors, cannot be accepted as evidence in trials.

477. In case children, who are subject to Law No. 2253 on the Establishment, Duties and Trial Procedures of Juvenile Courts, commit crimes with adults, a certificate is issued as a result of the preliminary investigation (art. 9). As this provision shall cause the child to be subjected to the same treatment as the adults in the preliminary investigation, measures to protect the child from psychological, physical and social harassment should be taken as of the beginning of the investigation. For this reason, it shall be suitable to keep the children subject to trial provisions separately from adults during the preliminary investigations and as of the beginning of the investigations.

478. Investigation and prosecution procedures have been regulated as follows within the coverage of articles 18 and 19. These articles state that "in cases of the absence of provisions in law, the provisions of the Penal Procedure Law shall be applied". It has been set forth in article 26 that Law No. 3005 on Trial Procedure in Witnessed Crimes, which arranges the trial procedures in the preliminary investigations, cannot be applied to crimes committed by children.

479. Different provisions of the Turkish Penal Code provide for reductions in sentences given to children. This is to prevent the negative effect of sentences on the physical, mental, psychological and social development of children. In the recent application, age is accepted as a criterion in distinguishing the crimes committed by children from the crimes of adults in terms of their types and underlying reasons, and specific reductions are applied to the sentences given to children. Due to this fact, age plays an important role in the jurisdiction regarding children.

(b) Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

480. Article 11 of the Law on the Establishment, Duties and Procedures of Juvenile Courts states that "No investigation can be made about and no sentence can be given to those who are younger than 11 years old at the time the crime is committed. However, if the crime requires an imprisonment sentence of more than one year or a heavier sentence, one of the measures specified in article 10 is applied. If sufficient measures will be taken by parents or persons liable for taking care of the child who is younger than 11 years old, other measures may not be applied by the court." Article 12 states that "If the investigation carried out in accordance with article 20 on a child who has completed the aged of 11 but has not completed the age of 15 when the criminal act is committed does not require a sentence, one of the measures specified in article 10 may be applied by the court."

481. Article 4 of the Law on the Execution of Sentences accepts the age limit of the non-applicability of sentences as below 18. Article 5 of the same law defines fines and foresees sanctions in the case that they are not paid. These sanctions, which turn a sentence into a

freedom-restricting punishment are not applied to children. Article 6 (2) of the Law on the Execution of Sentences, which provides for the postponement of sentences, has extended the limit of postponement to two years for those who have not completed the age of 18 and to three years for imprisonment sentences. These articles are in compliance with the CRC.

482. It has been specified in paragraph 2 of article 20 of the Law on Juvenile Courts that an investigation report shall be prepared for the child, "if necessary," prior to the implementation of a sentence and that this investigation shall not be carried out for some children. The provisions of article 20 of the Law on Juvenile Courts state that this investigation is carried out by experts such as social workers or their assistants or pedagogues, psychologists or psychiatrists," and article 30 states that "social workers or assistants, pedagogues, psychologists and psychiatrists of sufficient number are assigned to every Juvenile Court giving priority to those which need them the most."

483. Article 4 of the Law on the Execution of Sentences contains fines and measures which may be applied instead of short-term freedom-restricting sentences (for one year or less) in accordance with article 37 (b) of the CRC. Article 5 of the same law contains the provision that fines for children who are under 18 cannot be turned into an imprisonment sentence. Paragraph 3 of article 6 contains the provision that if a sentence of heavy imprisonment of less than two years is pronounced against a person who had not completed 18 years on the date the crime was committed, the sentence will be postponed.

484. Detention should only be applied as a last resort and it should be as short as possible. Any kind of harm to children during their detention should be prevented and measures such as supervision, settlement near a family or to an education institution should be taken instead of detention in article 19 of the Constitution, a juvenile can only be arrested by a decision by a judge or in cases of flagrante delicto or in the cases where delay would be dangerous. Although articles 104-126 of the Penal Procedure Law define the provisions regarding arrest, special provisions on children are not included. In the last paragraph of article 19 of the Law on Juvenile Courts, it is stated that "a decision to arrest cannot be taken against children at the stage of investigation and trial in relation to actions requiring freedom-restricting sentences of a maximum of three years, provided that the measures specified in article 10 are implemented."

485. The sentences for children in the age group 12-18 are applied with reductions.

486. In Turkey, the number of female children who commit crimes is less than the number of male children. Female children whose sentences are certified are kept in a separate place at the Izmir House of Correction for Children.

487. If freedom-restricting sentences are given to children between the ages of 11 and 15, they are implemented in the houses of correction according to article 12 of the Law on Juvenile Courts. Children may stay in these institutions until they complete the age of 18 and are later sent to open prisons. Children who continue their education, who are successful in workshop studies, who generate a positive impression on the administrators and trainers with their good manners and behaviour are not sent to open prisons and their period of stay in the institution may be prolonged until the age of 21.

488. There are three houses of correction, in Ankara, Elazig and Izmir. Academic and vocational education are given to children in these institutions. Thus, these children may attend basic education institutions, high schools and their equivalents and faculties according to their ages and requirements just like other children. Some of these children may be educated to win an apprenticeship. In addition to this, they may also attend courses to learn foreign languages and to prepare for the university entrance examination, as well as courses on social and cultural activities.

489. Workshops in the houses of correction are carried out and efforts are made to make the children an asset to the society.

490. Convicted children whose sentences are certified and convicted children who have been issued disciplinary punishments in the houses of correction are sent to the Sinop Juvenile Prison which has treatment activities. Nevertheless, children placed in the Sinop Juvenile Prison cannot benefit from the education and training facilities outside, as those in the houses of correction do. The general instruction of the General Directorate of Sentences and Prisons of the Ministry of Justice regarding the transfer of the sentenced children specifies the articles of the Turkish Penal Code which determine the institutions where criminal children will be placed. According to this general instruction children who have been sentenced in the framework of article 54 of the Penal Code shall be sent to the Ankara House of Correction; those sentenced in the framework of article 55 of the Penal Code shall be transferred to the Sinop Juvenile House of Correction and those sentenced on the basis of articles 54 and 55 of the Penal Code shall be transferred to the Elazig and Izmir Juvenile Houses of Correction.

491. Article 144 of the Penal Procedure Law states that "The person who is arrested or detained may always communicate with his defender in a confidential environment where third parties cannot hear what is said without the requirement of a letter from the attorney. The correspondence of these persons with their defenders cannot be subject to control." The same article contains the provision that letters sent between the arrested person and his/her lawyer and between the arrested person and persons who have the right to decline to stand as witness cannot be seized except in certain cases. Article 91 gives the judge the authority to decide to record communications. Also, the judge is given the authority to control the communication activities of the detainees through the administrators of the institutions. In accordance with article 135 of the Penal Procedure Law, detainees have the right to inform their relatives of their arrest.

(c) Administration of juvenile justice (art. 40)

492. The prisons and detention houses contain activities such as reading-writing courses, primary school, high school and vocational and professional education. Preliminary studies for university entrance and independent university study exams, theological subjects, which should be given by muftis or preachers, workshop activities, and social and cultural activities are among the activities held in these institutions.

493. Studies have been initiated for the reorganization of the professional education activities at the juvenile houses of correction and juvenile prisons. Within the framework of the

professional education programme of the new treatment model, whose application was initiated in 1995 in the Ankara Juvenile House of Correction, theoretical and practical professional education is given to children between the ages of 15-18 who do not have the possibility to attend basic education institutions under the scope of the formal education system and who are in the institution taking apprenticeship education and professional courses. The basic purpose of this education is to prevent the use of juvenile labour, to orient children towards education, and to provide for the acquisition of prestigious professions that are oriented towards production. Integration of this professional education programme in the general education system of the country is planned. All stages of this plan are made with the opinions, requests and participation of every child.

494. The Law on the Establishment, Duties and Procedures of Juvenile Courts does not contain provisions regarding disciplinary procedures that shall be applied in case of violation of the rules in juvenile houses of correction and juvenile prisons. For this reason, the relevant articles of the regulations are utilized. According to these articles, disciplinary measures are applied to the sentenced or arrested by the director of the institution such as preventing the child from attending cultural, sports and arts activities for a specific period of time and changing the workplace of the child in accordance with the rules relating to the transfer of the child to another institution.

495. Some of the children who complete their sentences are settled in private and public boarding schools and, with the support of public and private institutions and volunteer persons and institutions, those who cannot attend school are settled, provided a job and are observed. Guidance is given in the adaptation of some of the children and for the youngsters who return to their families. There are two "Youth Houses" in Ankara which have been established for sheltering the student children who have no place to go and who should not return to their previous environment.

496. Article 34 of the Law on the Establishment, Duties and Procedures of Juvenile Courts contains the provision that the misdeed records of the children shall not be submitted to any person or commission, except to the judiciary for the purpose of investigation and research and the election committees in the elections to the legislative organs. This is a beneficial provision which has been put into force to help children to integrate with the society.

497. In article 1 of the Turkish Penal Code, the principle of legality has been adopted with the wording "No one can be punished for an action which is not clearly defined as a crime by the law. No one can be punished with the penalties other than those specified in law." Article 2 says that "No one can be punished for an action which is not considered as a crime or misdeed in accordance with the laws of that time." Similar provisions are present in articles 15 and 38 of the Constitution.

498. Article 2 of the CRC points to the "context of innocence" which is one of the most important rights of the suspect. Accordingly, a person is considered innocent until proven guilty and sentenced with a final decree of a court. It has also been arranged as a provision in paragraph IV of article 38 of the Turkish Constitution.

499. Another result of the context of innocence is application of the principle of "reasonable doubt" in favour of the suspect (in dubio pro reo). In case of failure to find sufficient evidence, the doubt is decreed to favour the suspect. The provisions of Turkish law on this subject are in conformity with the CRC.

500. According to the Penal Procedure Law (article 135 (2)), the most natural right of a person who is suspected of committing a crime and against whom an investigation has been initiated is the right to know the accusation against him. This right is also known as the principle of "prior notification". This constitutes the foundation of the defence. A person who does not know what he/she is accused of shall not be able to make an effective defence. There is always the possibility that a suspected person is innocent. The right to know the accusation is especially important for these innocent people.

501. Paragraph I of article 25 of the Law on the Establishment, Duties and Procedures of Juvenile courts contains a provision for having a confidential trial and paragraph II, a provision governing the participation of the people who can attend a court trial with the permission of the judge.

502. The most important principle that shall make the hearing just is the "freedom of evidence". According to this principle, everything can be presented as evidence. Providing that it does not contradict science and logic, everyone can put forward evidence. There is no time restriction in evidence submission. The judge shall evaluate the evidence freely, but he is obliged to put forward a basis therefor.

503. The hearings should be held with the shortest possible intervals and at the stage of appeal, formation of a special department at the Court of Appeals is necessary for concluding cases rapidly.

504. The status of the witness is dealt with in article 45 of the Penal Procedure Law. As a rule, the witnesses are invited in accordance with paragraph 1 of article 45; in case failure to attend without an excuse, the witness shall be summoned in accordance with article 46 of the Penal Procedure Law. The authority of forced summoning is given to the judge. The Public Prosecutor, however, has been given this right in urgent matters by article 154 of the Penal Procedure Law. At the final investigation, the court can issue a forced summons decree. In emergencies and matters concerning arrest cases, the court may issue an order to attend the court without issuing an invitation. In this matter, children are subject to the same rules as adults.

505. According to paragraph 3 of article 47 of the Penal Procedure Law, family members and relatives of the suspect may abstain from being a witness. They will be informed of this right before they are heard. According to article 52 (1) of the Penal Procedure Law, those who have not completed the age of 15 shall be heard without taking an oath.

506. With regard to the hearing of statements and investigations, the suspect cannot be forced to confess. According to article 135 (2) of the Penal Procedure Law, following the notification of the accusation in article 135 (4), the "suspect has the legal right of not making explanations on the accusation". Moreover, in subparagraph 5, the suspect is given the right to demand the collection of evidence in his favour.

507. According to article 135, the suspect has the right to remain silent; thus, at the beginning of the interrogation, he/she shall be asked whether he/she wants to speak out or not. The silence of the suspect shall not be considered as an "implicit confession". Moreover, in article 135 (a) of the Penal Procedure Law, "prohibited questioning methods" have been listed.

508. In the Penal Procedure Law, article 153 (2), it is stated that the public prosecutor shall investigate the matter to the advantage of the suspect rather than just those against him/her and shall try to collect and record evidence that may be lost. All these provisions are in compliance with the CRC.

509. The subjects of "objection" and "appeal" are dealt with in article 297 and the following articles of the Penal Procedure Law. In the cases for which a provision is not found in the Law on the Establishment, Duties and Procedures of Juvenile Courts, the provisions of the Penal Procedure Law are applicable.

510. In article 25 of the Law on the Establishment, duties and Procedures of Juvenile Courts, it is stated that the hearing of children shall be kept confidential. In the same article, the privacy of the life of the child has been protected by stipulating who can attend the hearings and at which stage and by recognizing the possibility that a child can be taken out of the hearing to serve his/her best interest.

511. Privacy should be given the utmost importance to prevent the disclosure of children's identity and the publication of any kind of information with regard to the identification of the child. Article 33 of the Press Law and article 40 of the Law on Juvenile Courts have prohibited any such publication with regard to children under the age of 18.

512. There is no legislation other than the Law on Juvenile Courts with regard to the development and protection of children. Where the Law on Juvenile Courts is not applicable, other laws are applied. As a result of the difficulty in being well informed of all the existing laws containing provisions concerning children, some cases end up against the children from time to time. For this reason, all legislation with regard to children must be collected under one law. For this purpose, the Seventh Five-year Development Plan envisaged the establishment of an intersectoral committee to scan the legislation and prepare the drafts for the necessary modifications in order to fulfil our liabilities with regard to the CRC.

513. The most basic law in Turkey with regard to the juvenile justice system is Law No. 2253 on the Establishment, Duties and the Trial Procedures of Juvenile Courts. In addition to this, all laws with regard to crimes committed by adults are also applicable to children. Law No. 2259 on Police Duty and Authorities, the Turkish Penal Code No. 765, the Anti-Terrorism Law No. 3713, Law No. 2845 on the Establishment and Trial Procedures of the State Security Courts, Law No. 1412 on Criminal Trial Procedures, Law No. 2992 on the Organization and Duties of the Ministry of Justice, Law No. 4358 on the Organization and Duties of the General Directorate of Prisons and Jails, Law No. 647 on the Execution of Sentences, Law No. 1721 on the Management of Prisons and Jails, Law No. 7682 on Judicial Records and the regulations thereof from the juvenile justice system.

514. A Guidance Committee has been established with specialist persons in the fields of juvenile law, development, psychology and criminology under the aegis of the Ministry of Justice. The Ankara Juvenile House of Correction has been chosen as a pilot institution and studies for modifying the treatment programmes have been initiated in this institution.

3. Children in situations of exploitation

(a) Economic exploitation (art. 32)

515. In Turkey, the legal arrangements regarding the employment of children can be classified in groups like the minimum age for children employed in industry, trade, mining, marine works, the entertainment sector, and prohibitions regarding the employment of children in heavy and dangerous work. Employment periods, holidays and salaries concerning the working conditions of the juvenile workers are also fixed in the legislation. The fundamental legal provisions regarding working children in Turkey are found in the Constitution of the Turkish Republic, the Labour Law No. 1475, and Law No. 3308 on Apprenticeship and Vocational Education.

516. Article 50 of the Constitution states that "No one shall be required to perform work unsuited to his age, sex, and capacity. Minors, women and persons with physical or mental disabilities, shall enjoy special protection with regard to working conditions. All workers have the right to rest and leisure. Rights and conditions relating to paid weekends and holidays, together with paid annual leave, shall be regulated by law."

517. Article 49 of the Labour Law No. 1475 stipulates that paid annual holidays of the workers who are 18 or younger cannot be less than 18 days. The same law regulates the working conditions of children. According to this, the employment of children younger than 15 is prohibited. However, children who have completed the age of 13 may be employed in light work that shall not harm their health and development, school or vocational education. The working hours of those who attend school are arranged in a way that shall not obstruct school hours.

518. Employment of males who have not completed the age of 18 and females at any age in underground and underwater work is forbidden. Employment of male children who have not completed the age of 18 and females at any age in industrial work at night is also forbidden. Children who have not completed the age of 16 cannot be employed in heavy and dangerous work.

519. Before employment, children between the ages of 13 and 18 (including 18) are examined first by the doctor of the workplace, workers' dispensaries and, where there are none, by the nearest social security institution, health centre, governmental or municipal doctors. It must be certified by a report that they are physically suitable to meet the conditions of the work. They must have a similar medical examination at least once every six months until they complete the age of 18 and it must be controlled whether there is a hindrance to the continuation of their employment in this work. All of these medical reports must be kept in the workplace and must be presented to the authorities upon request.

520. ILO conventions to which Turkey is a party and the European Social Charter contain provisions regarding working children. Turkey has approved seven ILO conventions.

521. According to the "Children's Seminar" document of the State Institute of Statistics, children are employed for two main reasons. One of them is to contribute to the traditional life of their families and the other is to contribute to the family income. Working children can be classified as children employed in the agricultural sector, small-scale industry, the streets, and unregistered areas. The workplaces where the children are employed are mostly small establishments which utilize old technology and which are based on hand labour. Due to the lack of supervision, children employed in these establishments are open to all kinds of abuse.

522. The children employed under the scope of Law No. 3308 on Apprenticeship and Vocational Training Education have some social security rights and insurance different from other children. The insurance premiums for work-related accidents or illnesses of these apprentices are paid by the State. However, it is known that the scope of this law is not broad. According to 1993 statistics of the Ministry of National Education, 200,000 apprentices have been trained at 300 apprentice centres during the 1992/93 academic year. This figure corresponds to 5 per cent of the working children according to the "Juvenile Employment Questionnaire" of the State Institute of Statistics.

523. In Turkey, it is seen that the children under the age of 13 are in work despite the fact that their employment is forbidden.

524. Since 1990, when Turkey signed the CRC, the Department on Working Children established under the aegis of the General Directorate of Labour has played an important role in drawing the attention of the relevant public and private sector organizations to this issue. ILO/IPEC (International Programme for the Elimination of Child Labour) projects which have been initiated within this framework have encouraged studies conducted by various civil society organizations and the Ministry of Labour and Social Security to end child labour. All these efforts had a significant effect on increasing the sensitivity of the public on the issue of child labour.

525. The projects conducted by ILO/IPEC since 1993 are as follows:

(a) With the cooperation of ILO/IPEC-Ministry of Labour and Social Security:

- Project for the establishment and strengthening of a Child Labour Unit at the Ministry of Labour and Social Security;

- Project for the training of inspectors on child labour;

(b) With the cooperation of ILO/IPEC-Fişek Institute:

- Health services for the children employed in small-scale establishments;

(c) With the cooperation of ILO/IPEC-Ankara Metropolitan Municipality:

- Project for the children working in the streets of Ankara;

(d) With the cooperation of ILO/IPEC-the State Institute of Statistics:

- Research on child labour at the national level;

(e) With the cooperation of ILO/IPEC-Turkish Development Foundation:

- Research project on children working in rural areas;

(f) With the cooperation of ILO/IPEC-TÜRKIŞ (Trade Union):

- Strengthening of trade unions on juvenile labour;

(g) With the cooperation of ILO/IPEC-TISK (Trade Confederation):

- Training of administrators on juvenile labour;

(h) With the cooperation of ILO/IPEC-research team of the Social Service Specialists Association:

- Research project on children working in the streets of Istanbul;

- National immigration research project.

526. Prohibition of the employment of children in some areas, without taking socio-economic conditions into consideration, leads to the secret employment of children whereby they face more abusive conditions. To prevent this, an effective supervision mechanism should be put in place in addition to the legal arrangements.

527. According to the Labour Law (No. 1475), the minimum age for employment is defined as 15 as a rule and as 13 for exceptional "light work". However, due to the fact that this provision is void in places where three people or more are employed, the minimum working age is 12, as specified in article 173 (1) of the Common Hygiene Law No. 1593.

528. In the past there was no important difference between the age of completing compulsory education and the minimum employment age, which caused children to start to work at an earlier age. The extension of compulsory education to eight years constitutes an achievement also in the harmonization with Law No. 1475 which aims to prevent the employment of children under 15.

529. Economic and social assistance mechanisms for the families whose children have to work due to economic reasons are developed in order to provide these children with education opportunities.

530. There are institutions such as the "Center for children employed in the streets of Ankara", an ILO/IPEC project, to which working children may apply for help with their problems in their workplaces, families, schools and friendship relations.

(b) Drug abuse (art. 33)

531. As regards drug abuse and addiction, children and young persons are the most vulnerable groups. In fact, statistics on Turkey show that three fourths of the addicts in Turkey started taking narcotic drugs or solvents before the age of 30. With a young population of over 25 million, Turkey is aware of the fact that the matter needs urgent attention as the drug pushers' main target has become the schools and universities and other localities frequented by children and young people.

532. On the legal side, the Turkish Penal Code regards drug trafficking as a grave crime for which the offender is liable to receive prison sentences of more than five years (art. 403). Heavier sentences are given to those who are consistent in this illicit trade and/or are carrying it out in an organized manner.

533. To tackle the problem, a governmental body was set up under the chairmanship of the Minister of State for Family Affairs in July 1997. This body consists of a committee and a subcommittee where the concerned ministries and educational, legal and social institutions are represented. The governmental body has been given the task of arousing public awareness on the drug problem. In this respect, special attention is given to the training of personnel in the education sector and the launching of campaigns to enlighten parents on the dangers of drug abuse that threaten their children. Likewise, the drafting of the laws, rules and regulations and advising the Government accordingly are also to be undertaken by this body.

534. The Turkish Penal Code lays the necessary ground for the prevention of the abuse, sale and smuggling of drugs and the protection of children. For example, there are provisions which prohibit the sale of alcohol near schools. Sale of alcoholic beverages to children under 18 is also prohibited.

535. Medical institutions oriented towards drugs and addictive substances in Turkey have created a specialized structure on this issue.

(c) Sexual exploitation and sexual abuse (art. 34)

536. There are legal arrangements in Turkey regarding the protection of children from sexual abuse. Subparagraph (c) of article 11 of Law No. 2559 on the Duties and Authorities of the Police states that "those who produce and sell films, records, videos and cassettes which are in contradiction with the general morality and manners will be obstructed even if there is no application or complaint. Real and legal persons who record tapes and video cassettes for commercial purposes have to give one copy of these tapes and cassettes to the local civil authorities before they are broadcasted".

537. Article 12 of the aforementioned Law states that "employment of girls and women in casinos, bars, cafes and similar places serving alcoholic beverages, baths, Turkish baths and

beaches depends on the permission of the local civil authorities. Men and women who are under 21 cannot be employed in these places in any way". The police prohibit the admittance of those under 18 to bars, cafes and pubs, even if they are accompanied by their parents and guardians.

538. Relevant articles of the Turkish Penal Code regarding the penalties applied in case of the sexual abuse of children are as follows:

(a) According to article 435 of the Turkish Penal Code, those who encourage a child who has not completed the age of 15 to prostitution and those who shall facilitate this shall be imprisoned for a period of not less than two years and sentenced to a heavy fine. If the child is encouraged to this path by one of the sisters or brothers of the child, those who adopted the child or the parent or guardian of the child, teacher or trainer or servants or other persons whom the child is entrusted with the care of, the imprisonment period will be a minimum of three years.

(b) The penalties for sexual exploitation of the children are as follows:

(i) According to article 414, "Those who shall seduce a child who has not completed the age of 15 shall be punished with heavy imprisonment sentence of not less than five years." If the action shall be realized through the use of pressure, force or threat against a child who is in the position of not being able to resist the action due to mental or physical disorder or through the use of tricks, the period of imprisonment shall not be less than 10 years;

(ii) According to article 415, "Those who commit an act or action against the honour and chastity of a child who has not completed the age 15 shall be imprisoned from two to four years and if this act and action shall be executed under the conditions specified in the second paragraph of the above article, the imprisonment period shall be 3 to 5 years.";

(iii) According to article 416, "Those who seduce a person who has completed the age of 15 by means of pressure, force or threat or who commit this action against a person who is not able to resist the action due to a mental or physical illness or a reason other than the act of the concerned or due to tricks shall be imprisoned for a minimum of 7 years." Those who have a sexual relation with a person who is not of legal age, with his/her own will, shall be punished with an imprisonment sentence of 6 months to 3 years, if the action does not involve a heavier sentence;

(iv) According to article 417, "If the acts and actions specified in the above articles shall be committed by more than one person or committed by one of the brothers, family members, parents, guardians, teachers, trainers or servants or those to whom the child is left, the penalty foreseen by the law shall be increased by half.";

(v) According to article 418, "If the aforementioned acts and actions shall lead to the death of the victim, the concerned shall be given a heavy life imprisonment sentence."

539. Immigration from rural areas, rapid and irregular urbanization, unemployment and poverty lead to less use of the educational facilities by children of poor families, an increase in the number of runaways and the exploitation of children in environments where they find themselves in prostitution, begging and crime. The increase from five to eight years of compulsory basic education has been a very positive step in combating this problem.

540. In the international field, Turkey supports the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography, which it considers as an important step in bringing these issues to the attention of the international community.

(d) Other forms of exploitation (art. 36)

541. The State protects children against all kinds of exploitation that shall damage their health in any way.

542. According to article 41 of the Turkish Constitution:

"The family is the foundation of the Turkish society.

"The State shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially the protection of the mother and children, and for family planning education and application."

543. According to article 42 of the Constitution:

"No one shall be deprived of the right of learning and education.

"The scope of the right to education shall be defined and regulated by law.

"Primary education is compulsory for all citizens of both sexes and is free of charge in State schools.

"The State shall provide scholarships and other means of assistance to enable students of merit lacking financial means to continue their education. The State shall take necessary measures to rehabilitate those in need of special training so as to render such people useful to society."

544. According to article 267 of the Civil Code, "The mother and father have the right to discipline their children." Article 272 of the Civil Code states that, "In case the mother and father do not fulfil their obligations, the judge is obliged to take the necessary precautions for the custody of the child."

545. "A person who causes a possible risk of damaging the health of a person who has been entrusted to him for necessary training, maintenance or teaching by misusing his/her power to discipline shall be imprisoned for up to 18 months" (art. 477 of the Turkish Penal Code).

546. In article 273 of the Civil code it is stated that, "If the physical or mental development of the child shall be found to be at risk, or if the child is emotionally abandoned, the judge shall have the right to take the child away from the parents and give the custody to a family or an establishment." According to article 274 of the Civil Code, "The judge may take away the right of custody from the parents who cannot fulfil the custody or who severely neglect their child. When the custody is taken from the parents, a guardian shall be allocated to the child. The provision of this decree shall include the children to be born in the future."

547. Articles of the Turkish Penal Code regarding this subject are as follows:

- "A person who eliminates or changes the heredity of a child shall be sentenced to imprisonment from one year to five years" (art. 445);

- "A person who gives a legitimate child to an infirmary by means of concealing his/her identification or leaves the child on the streets shall be sentenced to an imprisonment of three months to two years. If the concerned person is a relative of the child, the imprisonment shall be increased to one year to three years." (art. 446);

- According to article 478 of the Penal Code, "A person who mistreats a child under the age of 12 in a way that cannot be justified shall be imprisoned for up to 30 months. If this mistreatment is done by a family member or a relative of the child, then the period of imprisonment shall be increased to three months to three years";

- Article 545 of the Penal Code states that, "A person who gathers children under the age of 15 and forces them to beg, or who lets or makes a child who has been left under his custody to do so shall be imprisoned for a period of not less than three months and sentenced to a fine ...".

(e) Sale, trafficking and abduction (art. 35)

548. The concepts of child abduction, sale and trafficking should be taken into consideration together.

549. In the Turkish legal system, the issue of abduction is first examined in the section of the "Crimes Against the Freedom of the Individual" of the Turkish Penal Code and the actions that restrict the freedom of the individual and are committed without his/her own will are evaluated under the scope of crimes.

550. If one deprives another person of his/her freedom illegally, he/she shall be sentenced to imprisonment from one year to five years and a heavy fine.

551. If the criminal resorts to force or threat or commits such an action for the purpose of [illegible] material benefit excluding the cases specified in article 499, or for any purpose

resulting from differences in political, ideological, social opinion or delivery of the victim to a foreign country for military service, the sentence shall be changed to heavy imprisonment from three to eight years and a heavy fine.

552. According to article 179 of the Turkish Penal Code, if the actions specified in the above paragraphs are committed with weapons by more than one person, the sentence shall be increased by half.

553. Article 180 of the Penal Code states that if the concerned releases the individual of his own will without damage to the individual who is deprived of his/her freedom and without attaining his/her objective before the investigation, the sentence shall be reduced by one sixth to one half.

554. According to article 435:

> "Those who trick a child who has not completed the age of 15 and encourage him/her to engage in prostitution and facilitate this shall be sentenced to imprisonment for a minimum of two years.
>
> "If a child is tricked into prostitution by one of his/her brothers or parents or guardians, those who adopt the child, teacher or trainer or servants or other persons in whose control the child has been entrusted, an imprisonment penalty of a minimum of three years shall be given.
>
> "If those who have been subject to this kind of treatment have completed the age of 15 but are not over the age of 21, the concerned shall be imprisoned between six months to two years and sentenced to a heavy fine penalty."

555. "Those who shall destroy or modify the heredity of the child by hiding him or replacing him with another child shall be penalized with an imprisonment sentence from one year to five years" (art. 445).

556. Abduction for ransom is examined in article 449 of the Turkish Penal code. According to this article:

> "Those who imprison or kidnap an individual for the purpose of taking money or belongings or a title-deed which is legally in force, he/she shall be sentenced to heavy imprisonment from 15 to 20 years if the objective is not attained. In case of the attainment of the objective, the upper level of the sentence shall be applied."

557. Also, despite the fact that those who are under 18 are considered children in the Turkish legal system, the age of 15 is considered as the basis in some action (arts. 182 and 435).

558. Legal arrangements on adoption are examined in articles 235-258 of the Turkish Civil Code. Adoption is realized with the common consent of the persons concerned and with the permission of the Common Court of Justice. However, sometimes, newborn babies are abducted from hospitals for adoption or families with low socio-economic levels with many children have

attempted to sell their children after their birth. The legal arrangements in Turkey regarding the issue of the sale, trafficking and abduction of children are in compliance with the CRC. Turkey is evaluating areas for improvement.

4. Children belonging to minority groups (art. 30)

559. Article 24 of the Turkish Constitution guarantees the freedom of conscience, religious belief and conviction. This is in compliance with both the Lausanne Treaty of 1923 and the CRC.

560. The rights of the minorities are laid down as follows in the Lausanne Treaty (arts. 34-37) (according to the Lausanne Treaty, the minorities in Turkey are Greeks, Armenians and Jews): article 38 of the Lausanne Treaty states that "all inhabitants of Turkey shall be entitled to free exercise, whether in public or private, of any creed, religion or belief, the observance of which shall not be incompatible with public order and good morals". In accordance with article 40 of the Lausanne Treaty, non-Muslim minorities have equal rights to establish, manage and control at their own expense any charitable, religious and social institutions, any schools and other establishments for instruction and education with the right to use their own language and to exercise their own religion freely therein.

561. As regards public instruction, Turkey has undertaken to grant, in those towns and districts where a considerable proportion of non-Muslim nationals are resident, adequate facilities for ensuring that in the primary schools the instruction shall be given to their children in their own language.

562. Turkey has placed a reservation to article 30 of the CRC by keeping the right of interpretation in accordance with the spirit of the Constitution of the Turkish Republic and the Lausanne Treaty.